TEMPLE ENTRY LEGISLATION

- REVIEWED -

WITH ACTS AND BILLS

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Preface

Temple entry for Harijans is a burning topic of the day. When temples in some parts of the country have been thrown open to Harijans, one wonders at the delay in opening all the other Hindu temples to Harijans. An uncompromising legislation permitting temple entry to all Hindus including Harijan is long over due. To maintain the purity and sanctity of the temples, rules similar to those in force in Travancore may be made.

This book is a review of the temple entry movement in the country. The relevant Bills and Acts are given in the appendix. It is hoped that this book will be useful to Lawyers, Temple Trustees and Harijan Sevaks.

In the production of this book many have helped. My acknowledgements are due to the Archæological Survey of S. India, to the Government of Travancore and to Seth G. D. Birla for the several photos which adorn the pages of this book. Sri C. R. Pattabhi Raman, Sri C. R. Srinivasan of the *Swadesamitran*, Sri Ramnath Goenka of the *Indian Express*, Sri S. V. Swami of the *Free Press*, Sri E. R. Govindan of the *Free India*, Dr. P. Natarajan of Gurukul Fernhill, Sri Khasa Subba Rao of the *Swatantra* have all helped me with blocks of pictures appearing in the book. My acknowledgements are also due to Sri D. P. Roy Choudury, Principal, Madras School of Arts for the loan of two blocks representing Temple Entry in Travancore.

13th Nov. 1946.

S. R. Venkataraman.

FOREWORD

Sri S. R. Venkataraman of the Servants of India Society, who has already written a valuable pamphlet on "Harijans Through the Ages" (Bharata Devi Publications, 1946) has, by bringing out this treatise on the temple-entry movement rendered further notable service in the cause of Harijans and Liberal Hinduism. In this treatise, he not only traces the history of the said movement and deals with the various pieces of legislation attempted and enacted in furtherance of it, in this province and elsewhere, including the Native States but critically reviews the whole subject in all its aspects. The review is original and instructive and is well worth perusal by everybody interested in the Harijan problem. Three useful supplements, the second of which deals with the Proceedings and Judgment of the Federal Court in the recent and famous Madura Temple Entry case, have been added to the review, while all the Bills and Acts relating to temple-entry as well as the excellent set of rules framed under the epoch-making Temple Entry Proclamation of the Maharajah of Travancore are collected in the appendices which follow. The book is a very useful one and ought to be in the hands of all Harijan Sevaks.

V. Bashyam Iyengar,

Retired Judge, High Court, Madras.

President:

Harijan Sevak Sangh, Madras City.

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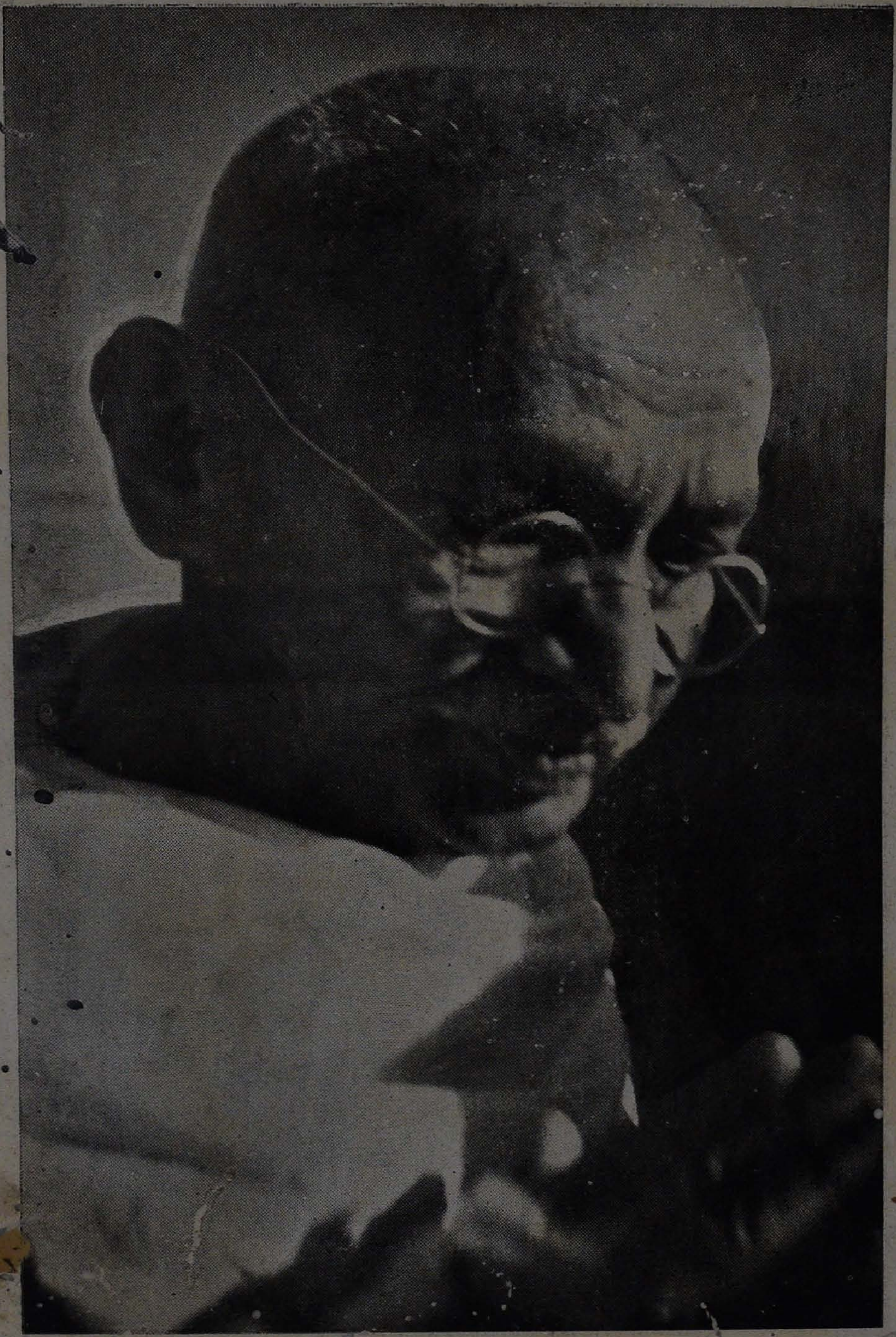


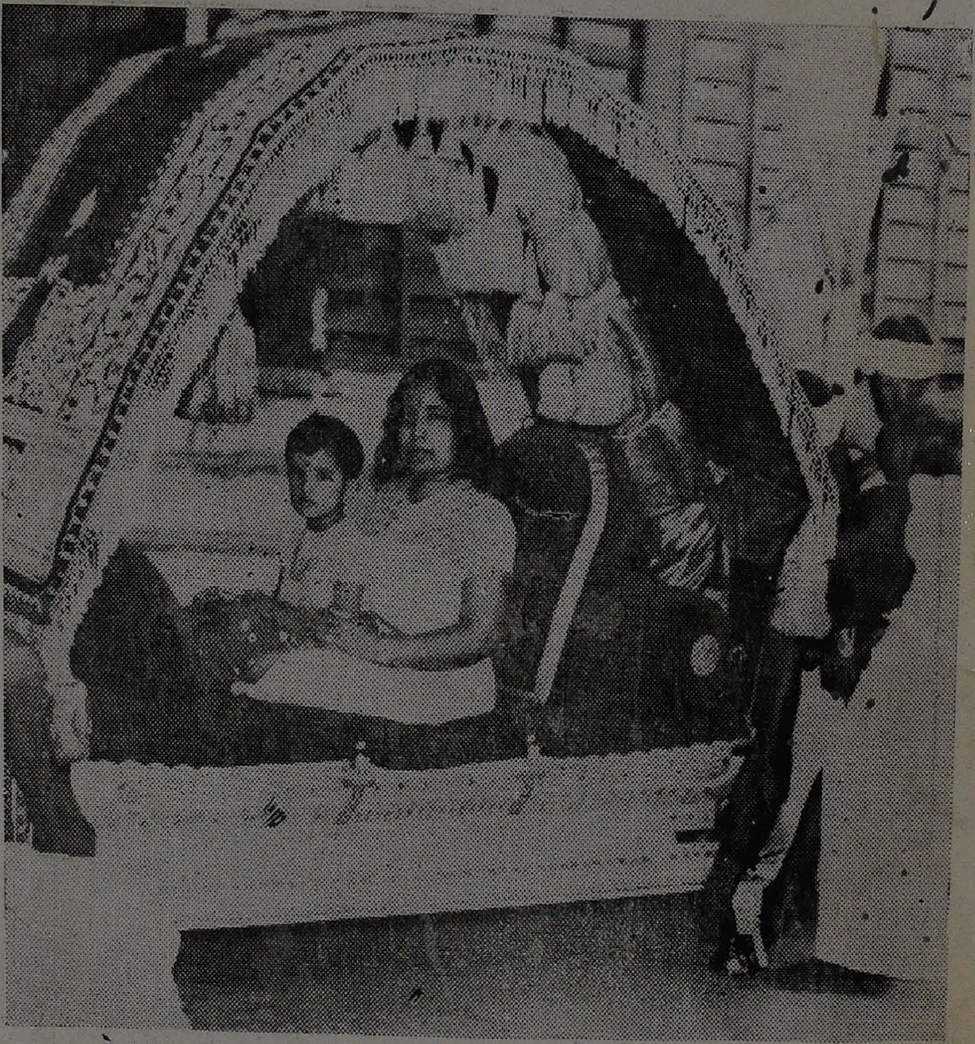
Mahatmaji

Courtesy] [Ananda Vik...an.

T[illegible]PLE ENTRY TRAVANCORE

PLAQUE BY D. P. ROY CHOUDURY

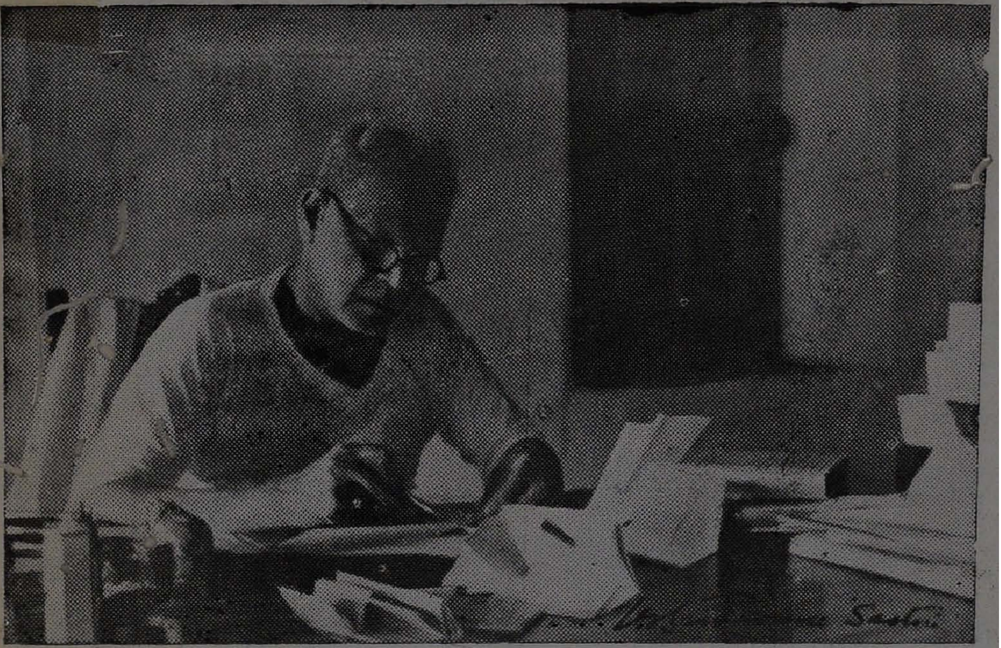
H. H. The Maharajah of Travancore
(In Temple Dress)



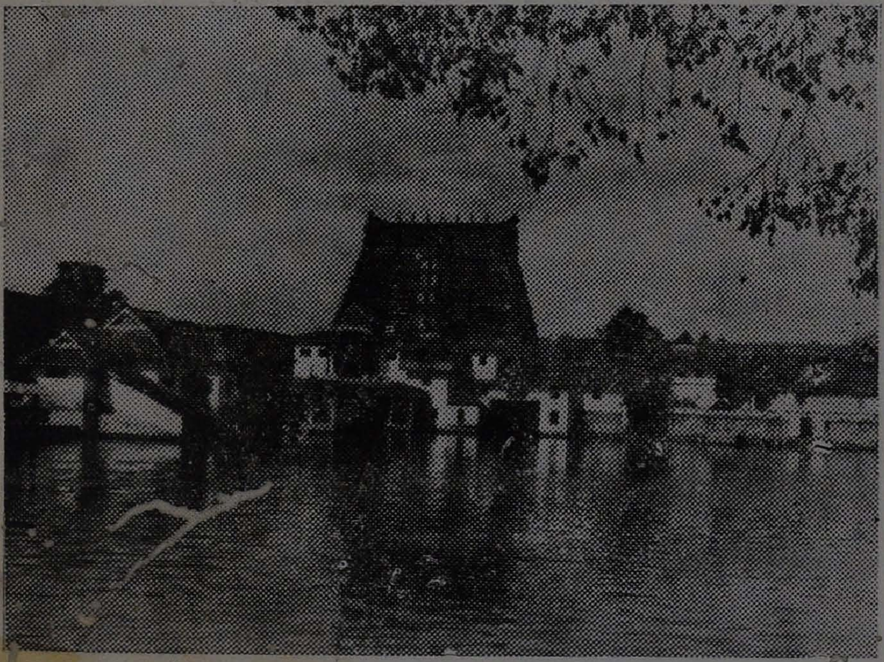
H. H. The Maharani of Travancore
(In Temple Dress)

Sachivottama
Sir C. P. Ramaswami Aiyar

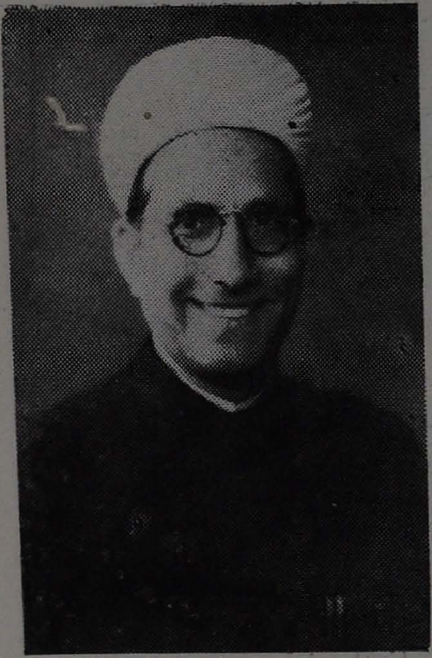
Sri Narayana Guru



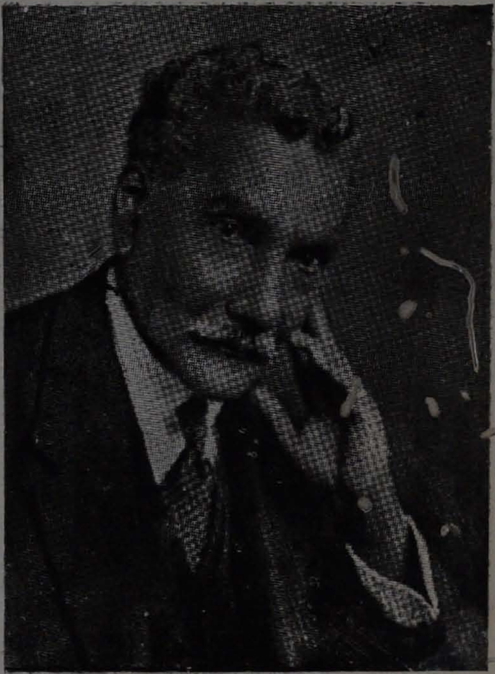
The late Rt. Hon. V. S. S. Sastri
who valued the means as much as the ends in matters of social reform.



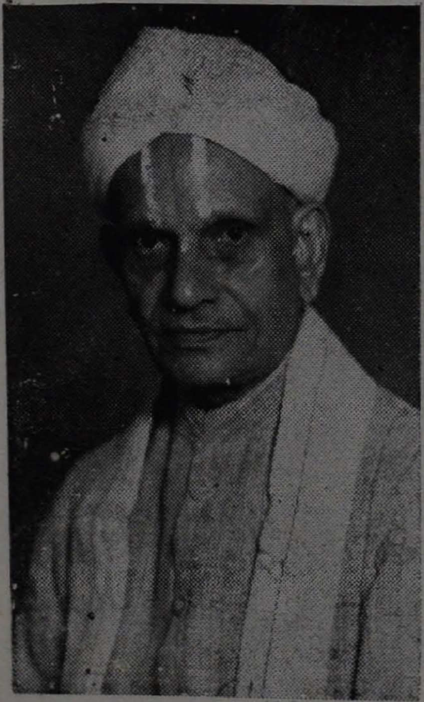
SRI. PADMANABHASWAMI TEMPLE
Trivandrum



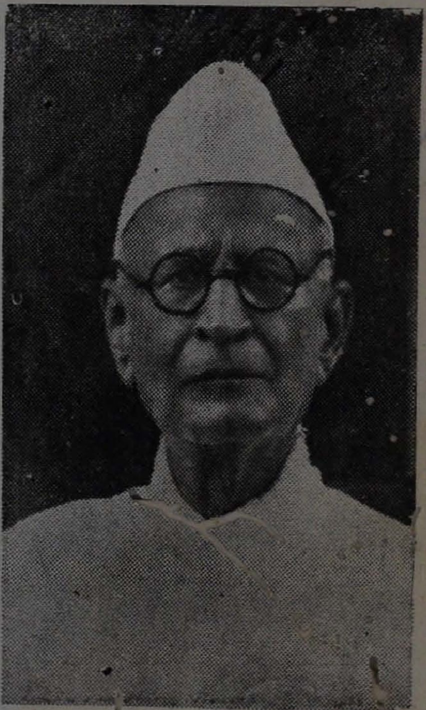
Seth G. D. Birla
President, H. S. S., Delhi



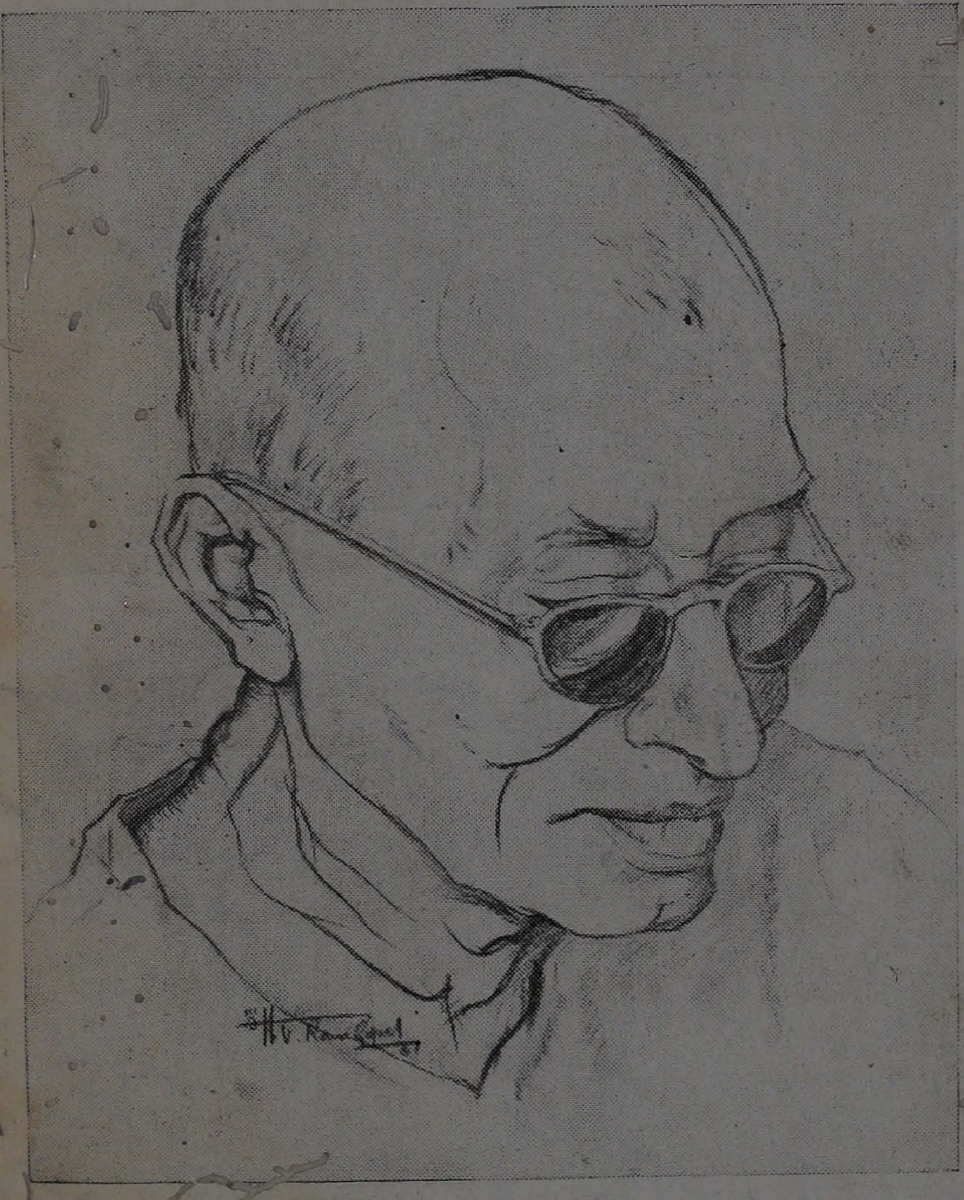
"Harijan Leader" late Dewan Bahadur
R. Srinivasan



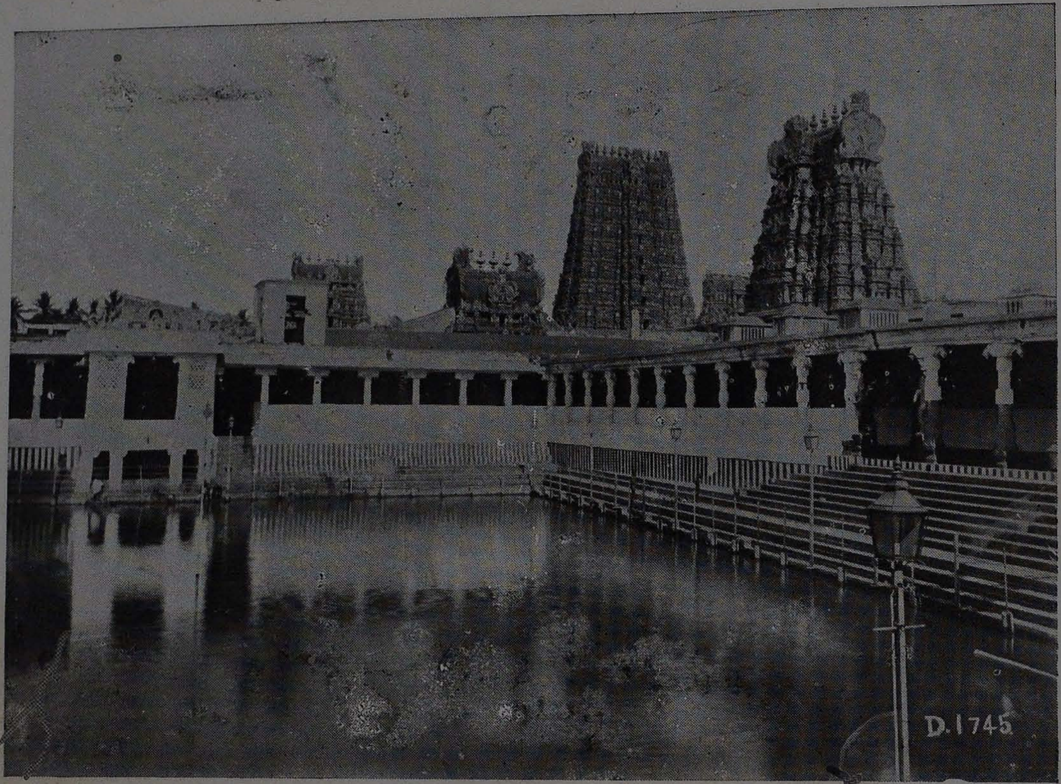
Dewan Bahadur
V. Bashyam Iyengar
President. H. S. S., Madras



Thakkar Bapa
Gen. Secretary, H. S. S., Delhi



Rajaji



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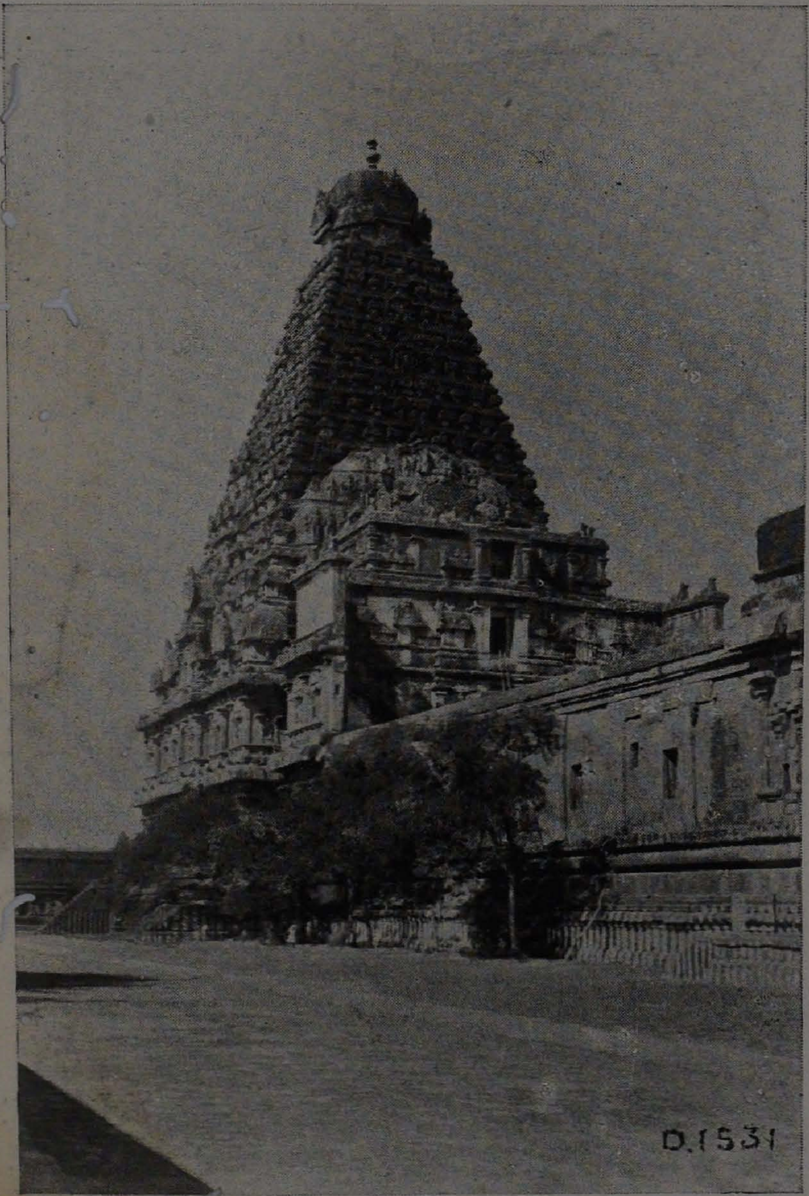

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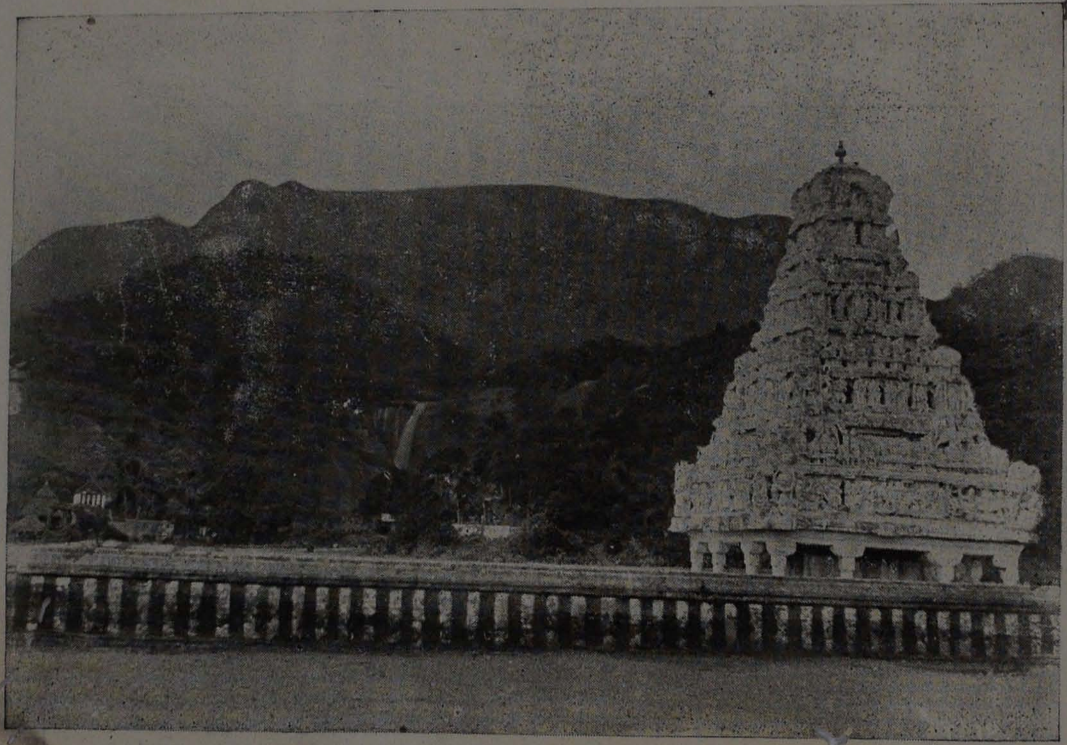

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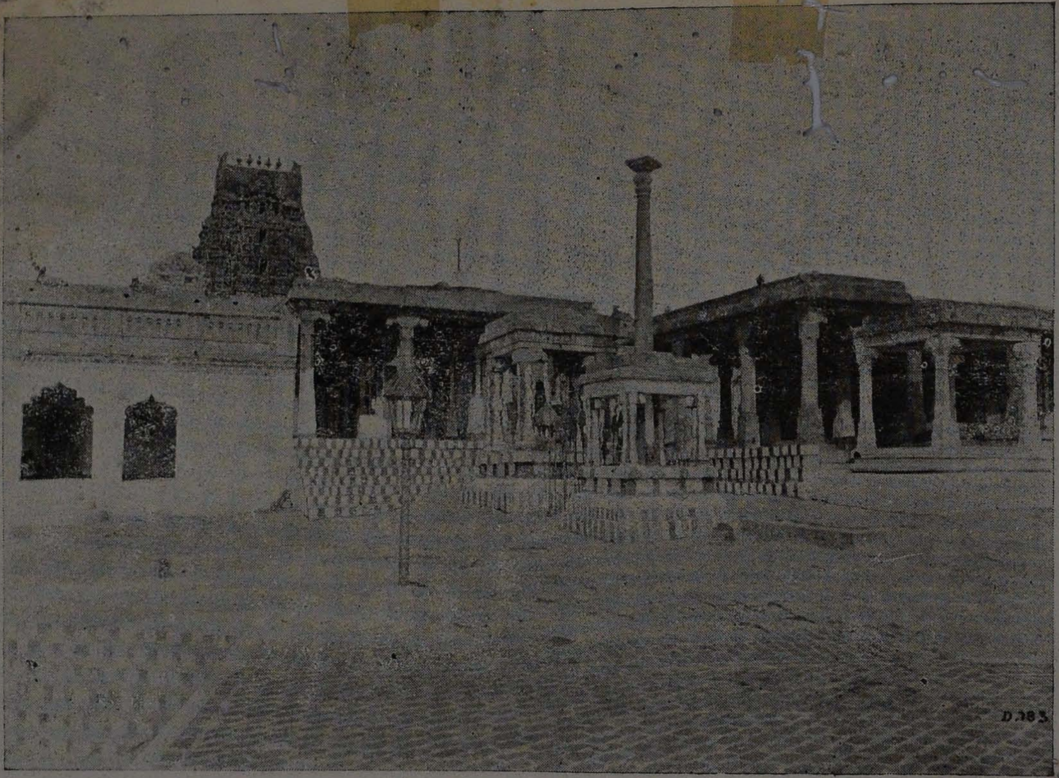

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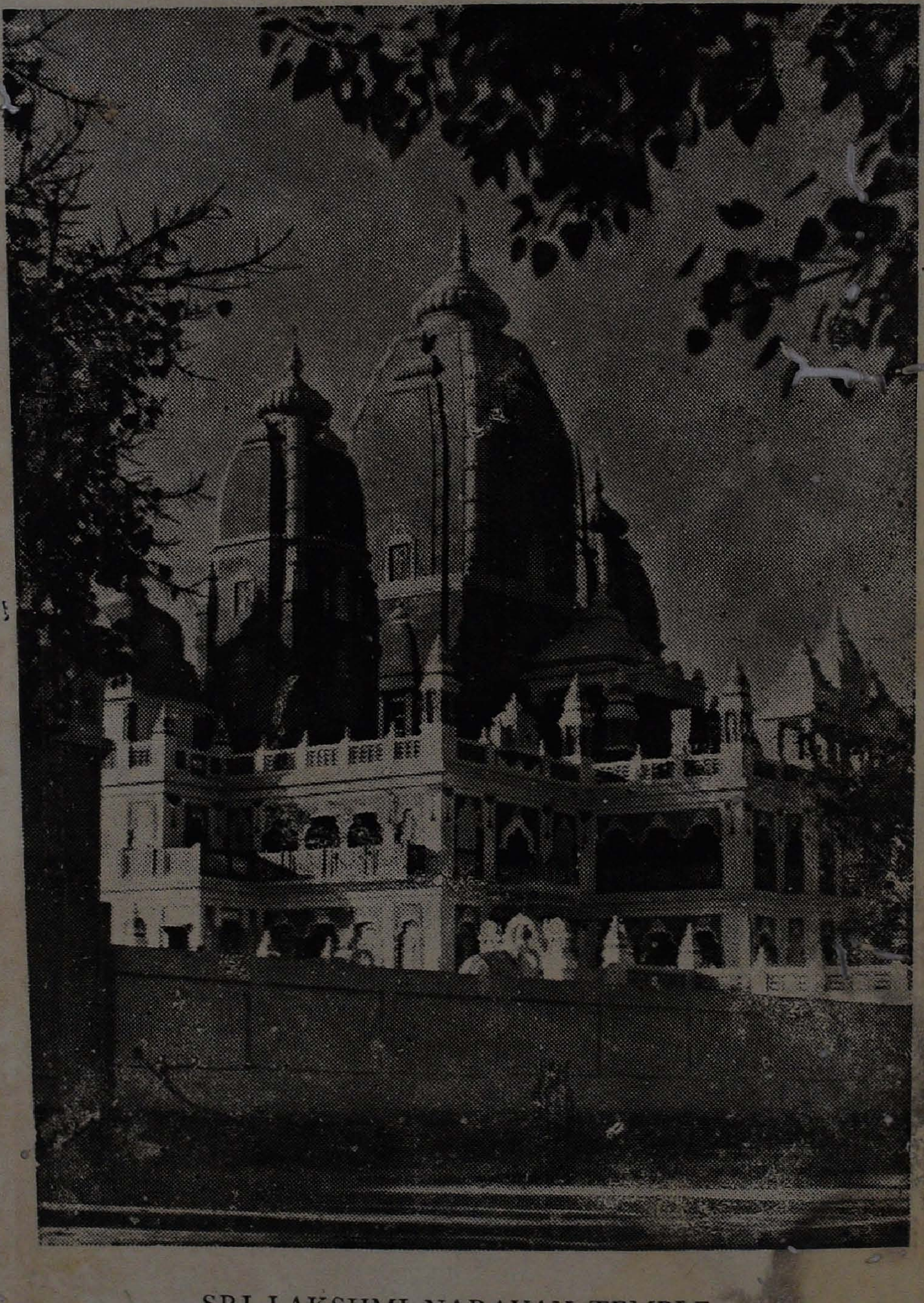
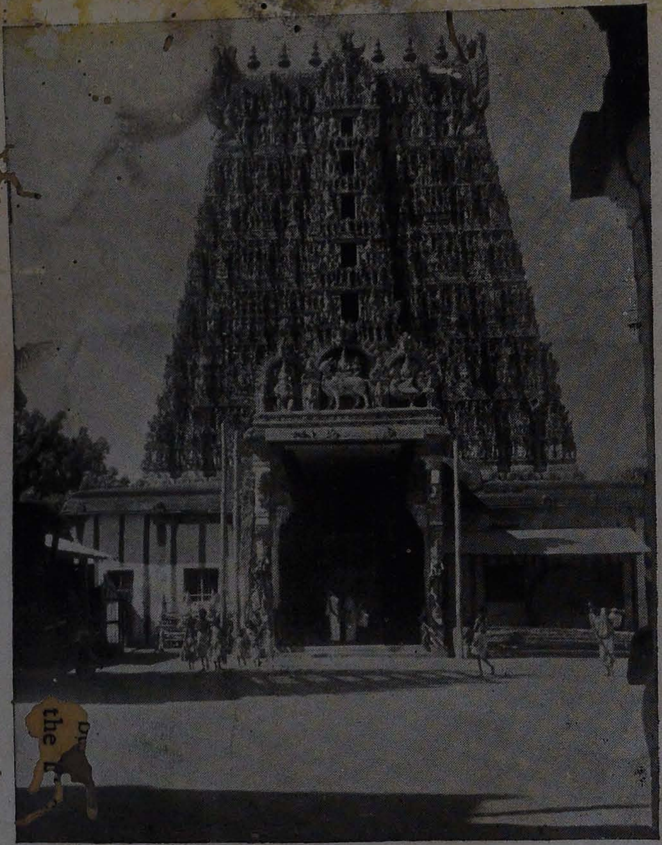


SRI LAKSHMI NARAYAN TEMPLE
New Delhi
(View From South)



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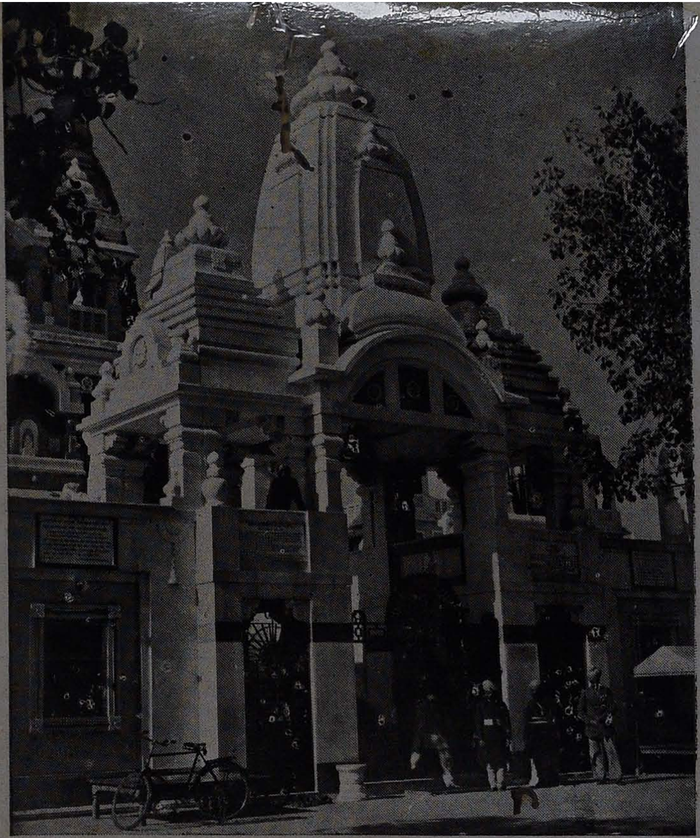

Sri Lakshminarayan Temple in New Delhi. This temple was built by Raja Baldevdas Birla in 1940. This temple is open to all Hindus including Harijans. This was opened by Mahatmaji. (View From outside)

AN EXAMPLE WITH A MORAL

ELLAMMAN TEMPLE, PERIAMET.

The trustees of this temple are Harijans. But caste Hindus and Harijans worship in this temple together without any feeling of high and low.

TEMPLE ENTRY LEGISLATION - REVIEWED.

Introduction.

Every religion that we know of has its house of God, variously described as Temple, Mosque, Church, Synagogue, Agiari and Gurudwara. A man professing any one of the faiths like Islam, Christianity, Judaism, Zorastrianism or Sikhism, whatever the stratum of society he may belong to, is privileged to free and unrestricted entry into the house of God of his faith for purposes of worship. But Hinduism alone of all religions, brands a section in its fold as untouchable and refuses it entry into temples by mere reason of birth. This is the very negation of the fundamental truth of all religions; this is opposed to all principles of humanity and is against the dictates of reason.

Hindu reformers throughout the ages, like Buddha, Asoka, Ramanuja, Basava, Guru Nanak, Ram Mohan Roy, Swami Vivekananda and Swami Dayanand Saraswati to name only a few, have recoiled with horror from this practice. Every one of them in his own life time did not a little to purge Hinduism of this excrescence. All of them were convinced that the Hindu Sastras taken as a whole did not support untouchability as it is observed now in Hindu society. If all their efforts did not produce the desired effect, it was not their fault. It was solely the fault of the Hindu society. For centuries past, the monster of untouchability has been extending its tantacles through all grades of Hindu society, enslaving and corrupting the mind of honest men and women, chocking up the arteries of the social and religious life of the great Hindu society.

Innumerable are the marks of untouchability, but one relating to the prohibition against temple entry is the blackest

spot in Hinduism. Harijans from time immemorial have called themselves Hindus, following Hindu customs and manners, believing in the sacred books of the Hindus and worshipping Hindu Gods. But they are prevented from entering any of the common temples to which persons belonging to the four *varnas* or castes freely resort for purposes of worship. The opening of temples to Harijans is a matter of the greatest importance for their social and religious emancipation; it is not a substitute for any other reform. Denial of temple entry to over fifty million people professing Hinduism in India is anomalous. The progressive and thinking sections among the Caste Hindus and the Harijans, having realised the great need for the removal of this disability, have been agitating for temple entry to Harijans for over quarter of a century.

Temple Entry movement started first in Travancore in 1919.

The movement for temple entry was first started in Travancore by the Ezhavas or Iluvas. In 1919, one of their leaders Mr. T. K. Madhavan, a prominent member of the Sri Mulam Assembly made a representation to the Government of His Highness the Maharaja of Travancore urging them to admit Ezhavas into Hindu temples. The Government refused to interfere on the plea of religious neutrality. In 1920, in the session of the Sri Mulam Assembly again, Mr. Kunju Panicker, another leader of the Ezhavas spoke on the hardships experienced by Ezhavas in social and political life, and pleaded that the Ezhavas should be allowed to enter Hindu temples for purposes of worship. The proposition was merely noted by the Government. Next, when Mr. T. K. Madhavan again raised this question in the Representative Assembly in 1921, the Dewan again disallowed it on the ground that it related to a religious matter. Thus the efforts of the Ezhava leaders in Travancore to secure for their community the right to enter Hindu temples did not lead to any immediate result.

In British India.

In British India, the question of temple entry for Harijans can be said to have been first mooted in the year 1923, at the Indian National Congress which held its session at Cocanada. Leaders from Kerala who attended the Congress succeeded in getting a resolution passed in the open session of the Congress on the uplift of Harijans in Kerala. The Congress also appointed a Committee to implement the resolution.

Vykom Satyagraha.

Soon after the 1923 Congress, in the year 1924, on their return from the Congress, leaders in Kerala and British India organised a satyagraha campaign in Vykom in the State of Travancore with a view to securing for Harijans, the right of entering and using the roads only round the Vykom temple, and which Harijans were prohibited by custom from using. After a year of satyagraha, the roads on the three sides of the temple were thrown open. With the proclamation that H. H. the Maharaja of Travancore made on his 25th birthday on the 12th November 1935 throwing open all his temples in his State to Harijans, the road on the eastern side of the Vykom temple has also been now thrown open to Harijans.

Legal obstacles in the way.

In the course of the struggle to secure temple entry for Harijans, it was found that this malady in the Hindu society in modern times was aggravated, not so much by the opposition of the Caste Hindus as by the decision of British Indian courts recognising customs and usages, no longer justifiable on equitable and humanitarian grounds, as having the force of law. It is necessary here to refer to one decision of the Privy Council reported in law reports, 35 *Indian Appeals, Page* 176 in Sankara Linga Nadar vs. Raja Rajeswara Sethupathi. In this case, the hereditary trustee of a Hindu temple in the Madras Presidency asked for a declaration that the defendants who were said to belong to an infer[illegible]mmu-

nity namely the *Shanars* or Nadars were not entitled to enter or worship in the temple, according to the custom observed in the temple, and for an injunction restraining them from entering the temple or worshipping therein. The defendents, the Shanars, denied the legality of the alleged custom and asserted their right to worship at the temple. The Shanars lost in the trial court. The matter was taken in appeal to the Madras High Court which upheld the lower court's decision. Again, the Shanars appealed to the Privy Council and its decision can be resolved as follows.

(1) Custom observed in the temple shall be the only test.

(2) The Trustee of any religious or charitable institution has no power to alter such custom, however unreasonable or antiquated it may be.

(3) Even a single worshipper at the temple can compel the trustee to abide by and enforce such customs, however reasonable the proposed alteration may be.

(4) For a trustee to vary, alter or depart from such custom will amount to a breach of trust making the trustee liable to removal from office.

(5) Any compromise made in this connection modifying or altering the prevailing customs will not be recognised in Law.

Even the Indian Penal Code contains a section protecting places of worship from defilement by Harijans. Section 295 therein reads as follows :—

"Whoever destroys, damages, or defiles any place of worship or any object held sacred by any class of persons with intention of insulting thereby the religion of any class of persons, or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult

to their religion, shall be punished with imprisonment of either description for a term which may extend to two years or with fine or both".

Entry of a Harijan is considered to be defilement of the temple by the orthodox Savarnas.

It was therefore thought necessary to remove these legal obstacles and Mr. M. R. Jayakar of Bombay sought to introduce a Bill (see appendix No. 1.). in the Legislative Assembly in 1937, of which he was a member, to remove disabilities affecting untouchable castes of the Hindu Community. This Bill sought to abolish obstacles created by courts in British India, in the way of the removal by the people affected and concerned, of those customs, usages and practices which are incompatible with the awakened conscience and the moral welfare of the Hindu Society. According to clause 4 of Mr. Jayakar's Bill, "no person belonging to the Hindu Community shall be deemed to be incapable by reason of his caste, of sharing the benefit of a religious or charitable trust created for the general benefit of persons professing the Hindu religion, or of sharing the benefit of a convenience, utility or service, dedicated or maintained or licensed for the use of the general public, any custom or interpretation of the law to the contary notwithstanding". This Bill was not moved by Mr. Jayakar as he ceased to be a member of the Assembly soon after.

Sir R. K. Shunmukham Chetty sought to introduce Mr. M. R. Jayakar's Bill on the 18th February 1931. But as he was elected President of the Assembly soon after, he was not able to move the Bill. The provision of Mr. Jayakar's Bill was definite enough. It sought to remove first certain disabilities with regard to sharing the benefit of religious or charitable trusts, and secondly, disabilites with regard to sharing the benefit of a convenience, utility or service dedicated or maintained or licensed for the use of the general pu[illegible] Lord Irwin in 1929, and Lord Willingdon in 1931 gave previous

sanction to the Bill readily. The orthodox community did not raise any objection or protest against the Bills then, as they did later in the case of similar Bills.

The Yeravda Pact.

With the historic fast of Mahatma Gandhi in September 1932; we enter on a new era in the history of the Temple Entry Movement. When the Yeravda Pact, which was arrived at between the caste Hindus and the Depressed classes, was subsequently ratified at the Conference in Bombay on the 25th September, 1932, the following resolution was moved from the Chair and unanimously adopted.

"This Conference, resolves that henceforth, amongst Hindus no one shall be regarded as an untouchable by reason of his birth and that those who have been so regarded hitherto will have the same rights as other Hindus in regard to the use of public wells, public schools, public roads and all other public institutions. This right shall have statutory recognition at the first opportunity and shall be one of the earliest Acts of the Swaraj Parliament, if it shall not have received such recognition before that time."

"It is further agreed that it shall be the duty of all Hindu leaders to secure by every legitimate and peaceful means an early removal of all social disabilities now imposed by custom upon the socalled untouchable classes including the bar in respect of admission to temples"

As a result of the Yeravda Pact and the Bombay Conference, sustained and vigorous efforts were made and are being made throughout the country to bring about the much desired change in the status of Harijans in Hindu society. The Yeravda Pact also gave further impetus to the Temple Entry Movement in the country.

Guruvayur Satyagraha.

ures
ples uruvayur in British Malabar contains an ancient and
he ple dedicated to Sri Krishna. For over a year Sjt.
Sir ad his colleagues were offering Satyagraha with the
n- etting this temple thrown open to Harijans. About when the Yeravda pact was being forged within the the prison of that name in Poona, Sjt. Kelappan's ha took the form of a fast in September 1932. na Gandhi soon got into touch with Sjt. Kelappan and omorin of Calicut, who was the trustee of the Guruvayur le, and on acquainting himself fully with the situation, wired on October 2, 1932 to Sjt. Kelappan asking n to suspend his fast and assuring him at the same time at he would himself bear his share of the burden. Sjt. Kelappan responded to Gandhiji's appeal and suspended his fast. Again in December 1932, Mahatmaji issued a statement declaring that he would hold himself as a hostage for the due fulfilment of the Bombay resolution. Mahatma Gandhi suggested at the same time that a referendum should be organised to ascertain public opinion in regard to the question of temple entry for Harijans in Guruvayur in the administrative area of Ponnani Taluka in which the temple is situated. The referendum was restricted to adult men and women belonging to castes entitled to temple entry. The results showed that 56% of those who participated in the referendum were in favour of granting temple entry to Harijans. But the Zomorin contended that Section 40 of Madras Hindu Religious Endowments Act which compelled trustees to maintain existing usages, stood in his way of throwing open the temple to the excluded classes even though the majority of worshippers of the Guruvayur temple were in favour of temple entry for Harijans. Therefore attempts were made to secure an amendment of the Act in the Madras Legislative Council.

The Madras Bills.

On 1st November 1932, Dr. P. Subbaroyan resolution in the Madras Legislative Council rec

that the Government must bring up legislation "to set at the doubts and disabilities which trustees of Hindu temp feel in regard to throwing open temples in their charge to untouchables". The Government's spokesman the Hon. S M. Krishnan Nair, the Law Member said that before the Gover ment came to a decision on the question raised by Dr. Subba royan the Government wished to ascertain the views of the Legislative Council and that as far as the Govenment were concerned they did not wish to take part in the voting on the resolution. When the resolution was ultimately put to vote, the Government not voting, the resolution was carried by a majority (vide Appendix II for the full text of the resolution). In the same year two bills were sought to be introduced in the Madras Legislative Council. In November 1932, Mr. Narayan Nambiar brought forward a Bill called the "the Removal of Depressed Classes Religious Disabilities Bill" and in December of the same year Dr. Subbaroyan introduced his bill called "Temple Entry Dsiabilities Removal Act."

Dr. Subbaroyan's Bill sought to provide a machinery for ascertaining the opinion of the majority of the worshippers in any temple in the matter of throwing it open to Harijans and to enable the trustee to act accordingly. In other words, the Bill provided for local opinion ; that is to say, the reform could be effected only where the majority of temple-goers was in favour of it. The Bill adopted for this purpose a wide franchise as the one then enjoyed by Hindus in the Municipal and local Board areas in the Madras Presidency (for full text of the Bill vide Appendix III).

The Government of Madras submitted the Bills of Dr. Subbaroyan and Mr. Nambiar for the previous sanction of the Governor-General under section 80-A (3) of the Government of India Act of 1919 as they related to a Central subject viz. "*Civil Law*" and could not be introduced in a provincial without the previous sanction of the Governor

The Governor-General after consulting all the local Governments and his own colleagues refused sanction to the introduction of the Bills in the Madras Legislative Council. He said that the object of the Bills was to secure for the untouchable classes of the Hindu community the right of temple entry, by the removal of the disabilities imposed on them by custom and usage, that they affected the religious beliefs and practices of the Hindu community all over India, that the question of temple entry for Harijans raised in the Bills was of an *All India Character* and could not be dealt with by a provincial legislature. The fact that several temples of the Presidency of Madras like Tirupathi, Rameshwaram, Conjeevaram, Madura and Srirangam are visited every year by thousands from all parts of India and that it will not be possible to ascertain their views on the matter, made the Governor General arrive at this conclusion. The Governor General gave interviews at Calcutta to Sanatanist leaders from Madras, who induced him not to give sanction for the introduction of this Bill. One of the apprehensions of the Sanatanists perhaps was, that in the Madras Legislative Council, constituted as it then was, a measure like the one sponsored by Dr. Subbaroyan stood a great chance of being put on the Statute Book without any opposition worth the name. For some time prior to Dr. Subbaroyan's Bill, his own resolution on the subject referred to above and another that was brought before the Council by Dr. (Mrs.) Muthulakshmi Reddi to raise the marriageable age of girls to 16, were passed without any protest from any member of the Council. The Sanatanists therefore played their cards well and succeeded in persuading the Governor-General to with-hold previous sanction for the introduction of the Bill.

But the considerations that weighed with the Governor-General for with-holding sanction to Dr. Subbaroyan's Bill were totally untenable. Every province has the right to pass legislation relating to matters pertaining to the province, like Dr. Subbaroyan's Temple Entry Bill. Because

every other province will have to bring identical Bills before their legislatures for throwing open temples in their provinces to Harijans, the matter does not on that ground become a Central subject or an all India subject. As a matter of fact in recent years various provinces have passed tenancy legislations and Agricultural loans Act to solve the problems peculiar to their own provinces.

As Mr. C. Rajagopalachariar observes in his brochure on the subject, "The Plighted Word", "The absurdity of the contention that the Central Legislature should deal with a Bill for temple entry in Madras will be patent when in conformity with the Government decision a Bill is introduced in the Assembly. It will have to deal with local custom and further, with the rules framed and authorities constituted under the Religious Endowments Act of Madras. Public Temples in Madras are placed under a statutory Board. In fact the Bill was specifically described as intended to amend the Madras Religious Endowments Act".

The point raised about the All India character of temples in the Madras Presidency is not relevent to the subject. Caste Hindu temple goers in South India do not care to know if a devotee who comes from outside is a 'touchable' or an 'untouchable'. The Pilgrim from North India is equally unconcerned about the caste of his fellow worshippers in the temple. Provided an untouchable puts on clean clothes and *Tilak* on his forehead, nobody in a strange place is concerned to know of his birth. He is passed off for a caste Hindu. But it is not possible for an untouchable of the locality, who is known as such, to enter any public temple without dire consequences. The Bill was intended to remove this disability. Again it has not been recorded anywhere that pilgrims from the North have asserted their claim to have a voice in matters of reform relating to temples in South India. When Sri Ramanuja gave Harijans the right of worship in the sacred Vishnu temple at Melkote, he did not consult the

devotees of that temple living in other parts, much less the orthodox people of the place. A decision of the Madras High Court bearing on this issue may be mentioned here. A prominent and orthodox Brahmin advocate of the Madras High Court, the late Mr. T.R. Ramachandra Iyer filed a suit in respect of a temple in Tellichery. The High Court dismissed the suit on the ground, that Mr. Ramachandra Iyer, a permanent resident of Madras could go to the temple as a pilgrim and had no sufficient interest in the affairs of the temple in Tellichery on the Malabar coast to file a suit. *A priori*, to effect reforms in such big temples in the North like those at Kashi, Gaya, Puri, Nasik, Hardwar, Muttra and Brindaban, it is not necessary to consult the orthodox people from the banks of the river Kaveri in the South.

Section 144 of the Cr. Pro. Code of 1898.

There are several enactments of the Indian Legislature which prevent untouchables from exercising the lawful rights as members of the public. We have already referred to the pertinent provision of the Indian Penal Code. Section 144 of the Criminal Code is yet another of that kind. It has been found out in actual practice that untouchables, though in law have equal rights with other castes and communities, are yet unable to exercise their rights. The reason is persons belonging to the socalled higher castes it is feared, are likely to molest them, thus obstructing them from exercising their rights peacefully. When such a situation arises Section 144 of the Code of Criminal Procedure is resurructed and untouchables are restrained from exercising their lawful right. With a view to remove this anomaly Rao Bahadur M.C. Rajah brought in a Bill in March 1933 to amend Section 144 of the Criminal Procedure Code, so that the authorities concerned may be legally empowered to protect the socalled untouchables and may enable them to exercise their lawful rights. His amendment was to the effect that no order under the section should be passed against a person, solely on the ground that he belonged

to a caste or community considered by law, custom or usuage to be untouchable.

Though an amendment like this was not calculated to bring much relief to Harijans, it was thought at that time by Mahatma Gandhi, to whom Rao Bahadur Raja sent this Bill for his information, that its passage would amount to driving a nail in the coffin of a custom which is regarded by a large majority of people as wholly evil.

But this Bill was not moved in the Assembly by Rao Bahadur Rajah, probably because, there were pending two other Bills before the Assembly relating to the same subject, viz., the Untouchability Abolition Bill of Rao Bahadur M.C. Rajah and the Hindu Temple Entry Disabilities Removal Bill of Mr. C.S Ranga Iyer.

The Untouchability Abolition Bill of 1933

When Dr. Subborayan's Bill was presented to the Government of Madras, another Bill was presented for introduction in the Legislative Assembly at Delhi and sanction of the Governor General for the same was sought which was accorded on Jannuary 30th, 1933. The Bill was among others sponsored by Rao Bahadur M.C. Rajah and it was called the Untouchability Abolition Bill (see appendix). The Bill was negative in character. Its purpose was not to interfere positively with any social or religious institutions. It only asked the State not to extend its cooperation in the matter of enforcing customs which are indefensible and which no longer hold good. The Bill merely wanted that no Criminal or Civil Court and no officer acting under Government authority should base any judgement or order on a recognition of the custom by which some human beings are, by reason of their birth in particular castes, deemed as polluting what they touch or what is near to them. It was introduced on the 24th March, 1933 and the motion for circulation was made on the 5th Sept, 1933. Mr. R. S. Sarma moved an amendment to the effect that the

Bill be circulated for the purpose of eliciting public opinion thereon by the end of June 1934. Pandit Satyendra Nath Sen had given notice of an amendment to the motion that the Bill be circulated for the purpose of eliciting public opinion from the temple going Hindus only. Subsequently he changed his mind and did not move his amendment, but opposed the Bill most vehemently. The discussion on this motion was continued on the 25th and Raja Bahadur Krishnamachariar moved an amendment to the effect that the Bill be circulated for eliciting public opinion thereon by the 31st August. The motive behind the amendment was to thwart the discussion of the Bill at the Simla Session of the Assembly, which was to be the last session of that Assembly. Even on that day the discussion was not over. On the 1st February, 1934 the Bill was again taken up for discussion. Sanatanists like Pandit Satyendra Nath Sen and Raja Bahadur Krishnamachariar opposed the Bill. They said that the Bill was *ultra vires* of the Indian Legislature that it went against the notification of Lord Canning in 1858 and the Proclamation of Queen Victoria in guaranteeing religious neutrality that it contravened the unwritten law of Britain and Ireland upon which the allegiance of the subjects depended, that untouchability as practised in India was the mildest of all and that the Bill was coercive. The sponsors of the Bill were compared to the three tailors of Tooley Street.

Even the Law Member, the Hon. Sir Brojendra Mitter was hostile to the Bill. He said "we are asked to take steps to have these unknown disabilites arising from unknown customs removed". He characterised the Bill as being vague and indefinite in its scope and in its effects, that no amount of expert assistance could improve it. The Pill contemplated the removal of the disabilities arising from

(1) Enactment, regulation or order.

(2) Custom and Usage.

(3) Interpretation of Law.

The Law Member contended that neither the Statement of Objects and Reasons nor the Bill specified instances under each head. To the Law member the Bill became untouchable, he even refused to help in the improvement of the Bill with his expert legal knowledge in the Select Committee stage.

The Ruling given by the President Sir R. K. Shanmukham Chetty on the points of order raised by the enemies of the Bill are worth noting. With reference to the point of order that the Bill was *ultra vires* of the Indian Legislature in the light of the Queen's Proclamation the President said that "the powers of this legislature were defined by the Government of India Act and not in the Queen's Proclamation......The Queen's Proclamation was not part of the written or unwritten law of Great Britain and Ireland and therefore the Bill was not *ultra vires* of the Indian Legislature. He further observed that freedom of conscience and freedom of right of worship were the inherent rights which were recognised by the unwritten law of Great Britain and the Bill before the house did not contravene."

The other speakers sponsoring the Bill effectively answered many of the objections raised by the enemies of the Bill. If untouchability as practised in India was of the mildest character, as was observed by Pandit Satyendra Nath Sen, there was no meaning in opposing the measure as they did. They were only stultifying themselves. Even the Raja Bahadur acknowledged that a rapid change was taking place in all spheres of life. He said "In my own life time, I have seen things which no one expected thirty years ago would happen to-day. In another fifteen years everything will come and therefore why force these things through the throat of the communities and thus lose a very great chance of our uniting together and pulling together to obtain our goal?". All that can be said in reply to this statement is that the Rajah Bahadur, having ears, did not hear the wailing of the untouchable and the pleadings of the caste Hindus and having eyes, did not see the Hindu

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community mustering strong to remove the existing social and religious disabilities imposed on Harijans by cruel custom. The Raja Bahadur really lost a very great opportunity of helping forward a great cause. Ultimately the house adopted on the 1st February. 34 the motion to circulate the Bill for the purpose of eliciting public opinion by the end of June, 1934.

The Bill was taken up for further consideration on the 23rd August 1934. Opinions from all the provinces on the Bill were not received in time. The sponsor of the Bill felt that no useful purpose would be served in moving the motion to refer the Bill to the Select Committee, without complete opinions on the Bill from the various provinces. Further that day happened to be a non-official day and M. C. S. Ranga Iyer's Hindu Temple Entry Disabilities Removal Bill was also coming up before the Assembly for consideration. Probably it was felt by the supporters of both the Bills that there would not be time for a full dress debate on both the Bills that it would help the passage of Mr. Ranga Iyer's Bill, if Mr. Raja did not move his Bill. At least that is the impression which is left on the mind of the reader of the Assembly debates. Accordingly Mr. Rajah did not move his Bill. That is the history of the Untouchability Abolition Bill.

The Hindu Disabilities Removal Bill.

Soon after the refusal of the Governor-General to give previous sanction for the introduction of Dr. Subbaroyan's Bill in the Madras Legislative Council, the same Bill was suitably amended for introduction in the Assembly and the necessary sanction of the Governor-General was obtained for its introduction in the Assembly. Mr. C. S. Ranga Iyer sponsored the Bill. The statement on behalf of the Governor-General according sanction for the introduction of this Bill was issued on 23rd January 1933. It said "The Governor-General is not prepared to deny to the Central Legislature an opportunity of

considering those proposals; and is therefore according his sanction for the introduction of the Bill. But the Governor-General and Government of India declare to make it plain that in their opinion it is essential that the consideration of any such measure should not proceed, unless the proposals are subjected to the fullest examination in all their aspects, not merely in the legislature, but also outside it, by all who would be affected by them. This purpose can only be satisfied if the Bill is circulated in the widest possible manner for the purpose of eliciting public opinion and if adequate time is given, to enable all classes of Hindus to form and express their considered views. It must also be understood that the grant of sanction to the introduction of these Bills, in this as in other cases in which previous sanction is required, does not in any way commit the Government to acceptance of the principle contained in them and that the Government of India retain a free hand to take at later stages such action in regard to these proposals as may upon a full consideration of the circumstances appear necessary." The two Bills referred to in the statement are (1) The Untouchability Abolition Bill of Rao Bahadur Rajah and (2) the Hindu Temple Entry Disabilities Removal Bill of Mr. C. S. Ranga Iyer. The latter Bill was introduced on the 24th March 1935 by Mr. C. S. Ranga Iyer. According to the provisions of this Bill, no temple can be opened to the untouchables "unless the question is put before the body of worshippers in the locality in accordance with the rules and procedure prescribed by the Local Government and a majority of them approve of this step." The appeal to the electorate with the widest franchise possible was contained in the provisions of the Bill itself. The Bill sought to facilitate reforms, but did not throw open any temple by itself. Mr. K. P. Thampan raised a point of order even before the motion was made that the Bill was *ultra vires* of the Indian Legislature. His argument was that Religious and Charitable endowments were treated as provincial subjects in the Government of India Act of 1919, that the Governor-

General could deal with a transferred subject only when control over the transferred field is divested under article 13 of the devolution rules, therefore he said that if the Governor-General in Council wanted to exercise control over any transferred subject, he must revoke or suspend such transfer and until and unless that was done, the subject was absolutely outside the control of the Governor General.

This point of order was raised under a misconception. The devolution rules were only intended for adjustment and arrangement between the Central Executive and the Provincial Executive. From the point of view of legislation under the provisions of the Government of India Act of 1919, the Assembly had power to legislate for all persons and places in British India. Again it was pointed out to Mr. Thampan that his interpretation of the words "Religious and Charitable endowments" was entirely wrong. Those words related to property. They do not relate to those intangible rights called civic rights. Entry into a temple is no right to property. It is not a right *in personum*. Further according to the Government of India Act civil laws and civil rights are Central subjects and the right which the Bill sought to extend to the untouchables was a civil one and on that ground the Assembly was competent to consider it. This position was further clarified by the President Sir R. K. Shunmukham Chetty. He said that according to section 65.1 (a) of the Government of India Act of 1919, the Indian Legislature had power to make laws for all persons for all courts and for all places and things within British India and so far as the Bill in question was concerned it was covered by section 65.1 (b) relating to the provisions for repealing any laws which for the time being were in force in any part of British India, or applied to persons for whom the Indian Legislature has power to make laws. Further the Chair observed that even though the subject matter of the proposed legislation might affect any provincial legislation so long as

the sanction of His Excellency the Governor General had been obtained for the introduction of that legislation it would be perfectly within the competence of the Central legislature to proceed with the legislation. When the motion for leave to introduce was made, contrary to the established convention in the house, Sir Vasudeva Raja of Kollengode opposed it, on the ground that it went against the solemn pledges of Queen Victoria and her successors not to interfere in matters of religion. Raja Bahadur Krishnamachari said that the Bill amounted to an interference with the leading tenets of the Hindu religion based on the caste system and that the Bill was driving a wedge into the Hindu community.

In the afternoon, the same day, Mr. Ranga Iyer moved that the Bill be circulated for the purpose of eliciting public opinion thereon by 30th July 1933. All Orthodox Sanatanists members of the Assembly opened a fusillade against the Bill. Their arguments were (1) that Harijans themselves did not want temple entry, (2) that it interfered with the power of the trustees, (3) that Harijans were not clean, (4) that custom and usages should not be disturbed, (5) that the sight of Harijans would pollute the deity, (6) the Orthodox people would not go to temples if Harijans were permitted, (7) that religious matters ought not to be decided by votes, and (8) that there would be breaches of the peace if the Bill was passed. Raja Bahadur and men of his ilk did not view the problem in its proper perspective. The large masses of untouchables were in favour of temple entry barring a few exceptions like Dr. Ambedkar. The Bill would not have in any way interfered with the power of the trustees. Their function was only to administer the funds and manage the temples. How the admission of untouchables into temples would materially interfere with their powers passes ones comprehension. Perhaps the Sanatanists contention was that the powers of the trustees had never been interfered with from ancient times. This is not true to facts. The various provincial governments have enacted from time to

time legislation for the better administration of temples, religious and charitable endowments. These enactments have considerably altered, modified and curtailed the powers of the trustees, all in the interest of the better administration of the institution. The Bill before the Assembly did not contain any provision calculated to materially affect in any manner whatsoever the powers of the trustee.

The argument that Harijans were not clean and therefore they must not be allowed inside temples postulated that all others that attended the temples were neat and clean which unfortunately is not true of the many big temples in India. Go to any big public temple in India. You will find beggars, and diseased people in its corridors. The devotees who go into the temple are not in any sense cleaner than the average devout untouchable. Granting that the untouchables were not clean, rules could be framed under the Bill insisting on all worshippers at the temple on a certain minimum standard of cleanliness.

Customs and usuages in the country have undergone many changes in recent years that it can be said without any fear of contradiction that the whole structure of the Hindu society has been changed considerably. Widow remarriages prohibited by the Sastras have now been legalised. Foreign travel which was taboo a generation ago has become very common. Inter-caste marriage and dinner have come to stay. Thus instances can be multiplied. Those who cry hoarse that custom and usuages must not be disturbed can be likened to the frog in the well. The vitality of a religion, society or country lies in its capacity to adjust itself to the changing times without injury to the fundamentals.

The argument that the sight of Harijans will pollute the deity and the orthodox people would not go to temples if Harijans were permitted is the most frivolous that one can conceive of. What happens to the deity when it is taken out in procession during important Hindu festivals and

when thousands of untouchables congregate to see the procession and the idol. If God is polluted, is he not polluted for ever?. Do the orthodox people abstain from going to the temples thereafter? Nothing of the kind.

The Sanatanists in their anxiety to kill the Bill did not hesitate to use such untenable arguments. Yet another argument of the Sanatanists was that religious matters ought not to be decided by votes. This is not true to facts. In many public temples, the trustees are elected by the votes of the worshippers and important decisions in respect of the management of the temple are taken by votes.

The last weapon in the armoury of the Sanatanists was that there would be breaches of the peace if the Bill was passed. All that can be said in reply to these people is, "Look at Travancore, and states like Baroda and Kashmir. All temples have been thrown open. No breach of the public peace has been reported. What is possible in an Indian State, must be possible in British India."

The Home member of the Government of India, the Hon: Sir Henry Craik also opposed the Bill. He said that provincial Governments without exception were unanimous in the condemnation of the measure. He forgot probably that as far as the Madras Presidency was concerned, public opinion was unanimously in favour of the provisions of the Bill. On 1st November 1932, Dr. Subbaroyan's resolution recommending to the Government to bring up legislation to enable the trustees of temples to throw open the temples in their charge to Harijans, was passed without any dissentient voice in the Madras Legislative Council. It is surprising therefore that the Home Member should have discounted the public opinion in Madras through its accredited representatives in the legislature. He further argued that the Bill was inspired comparatively by a small class of people in towns, the intelligentsia, the non-temple going class and that the depressed classes them-

selves did not want it. It is regretable that the Home member was unable to see the great wave of feeling throughout the country favouring such a step. He was trying to play the role of a modern Manu when he classified a section of the people in India as non-temple going. His statement is not true. There is no Hindu who is not a temple goer at one time or another. The exception if any only proves the rule. On ordinary days he worships his own family deity at home and on important auspicious occasions he visits public temples. There is no such class in Hindu society as the non-temple going class. The Home member let the cat out of the bag when he stated that the Government was opposing the Bill because the support to the Bill was confined to a political party, viz. the Congress, and the passage of the Bill would give that party tactical advantage. He forgot probably that before Mr. Ranga Iyer's Bill was introduced there were four other Bills introduced in the Assembly all by non-Congressmen. His contention therefore that support to this Bill emanated only from Congressmen is far wide off the mark. The Bill received the support of a large majority of Hindus including those, who belonged to the Congress party and there was absolutely no justification for associating this Bill with any political party like the Congress, in as much as the Congress as a body had not officially blessed the measure. The fact that a few prominent Hindu Congressmen suppported the Bill will not amount to the whole Congress as a political party supporting the Bill. The Home member's charge would be as true as the statement that the opposition to the Bill was from the Christians in as much as the Home member belonged to that faith.

Yet another objection of the Home member to the Bill was that it was a serious invasion of a private right of trust. In this connection the opinion of Mr. T. R. Venkatarama Sastriar was sought on this Bill and it is reproduced below.

"There is no infringement of the property rights of any one. The properties of temples are not sought to be diverted

from the purpose for which they are intended and have been used in the past. No worshipper has any right in the properties of the temple. All worshippers have equal rights even though custom may regulate the mode and manner in which and the spot from which the worship should be offered by each worshipper. The Harijan has so far offered worship only from outside the temple Any change of custom in this respect is no infringement of the property rights of any one. What the objections mean is probably that what would have been a trespass in the past, this legislation permits and therefore it makes a change in the right of property. In real fact it takes away no property from any one nor vests it in another. Legislation permitting the use of all public roads over some of which Harijans have not been hitherto allowed to walk, would in exactly the same sense be legislation affecting the rights of property. Nor can it be said to infringe on trusts, if by that is meant diversions of trusts from the purposes intended by the authors of the trusts.

Every legislation of the kind contemplates an innovation. Those who dislike an innovation express their dislike in horror inducing phrases. The criticism only means that a new benefit is conferred on Harijans and those who had hitherto the right to exclude them from such a benefit are deprived of that right and this is described as infringing the trusts and property rights.

The complaint indicates the deep abhorrence of Harijans temple entry in the minds of the orthodox. Those who consider that abhorrence is misplaced and unjustifiable can only deal with the evil by propaganda and persuasion and this legislation contemplates and provides an opportunity for that propaganda and persuasion before any change is actually effected in the present mode of worship."

The opinion of the Rt. Hon. Sir Tej Bahadur Sapru on the subject is also worth knowing. Giving his opinion on

the Untouchability Abolition Bill he said, "As I read the clause, it seeks to remove disabilities from which the untouchables are suffering under the existing law, but it does not seek to impose any disability on caste Hindus. So far as the latter are concerned there does not seem to me to be anything like an element of compulsion contemplated by the Bill. If they do not wish to associate with the untouchables in the temples they are not by this Bill compelled to do so. All that it requires them to do is that they must not stand in the way of the untouchables It also lays down a rule of law for the courts which are required not to recognise any custom of untouchability for judicial purposes. I therefore fail to discover any element of compulsion in this Bill. Both the Bills are essentially moderate. I have for a long time been aware of the line of criticism which has been taken by certain class of our people, not only now, but also on previous occasions that social and religious reforms must be a matter of persuasion and not of legislation. On principle I disagree with this view. If the legislatures are your legislatures and are going to be in a great measure your own in the future—as I firmly believe they will be—I do not see any reason why we should hesitate to use them as instruments for social reforms .... Since the days of Lord William Bentinck, some very beneficial pieces of legislation have been put on the Statute book".

On the whole the discussions in the Assembly on Mr. Ranga Iyer's Bill showed that both the orthodox members and the Government were determined to oppose this Bill tooth and nail. When Mr. Ranga Iyer moved that the Bill be referred to a select Committee the Home Member seriously asked him to withdraw the Bill and the Sanatanists too threw their weight with the Government. Sir Henry Craik said that the provisions of the Bill were impracticable and inequitable. It passes ones comprehensions how the provisions were impracticable when a proper

and democratic machinery had been provided for the purpose in the Bill and how the provisions were inequitable when nothing could be done under the Bill against the will of the majority of voters.

The argument of the Hon. Sir Nripendra Nath Sircar, the Law Member was set to a different key. He said that it was not a matter to be brought up and disposed of on the floor of this house and that it was a matter to be decided by the Hindu community. He said that, "they must have sense to come to some kind of arrangement. Some adjustment by which this strife could be ended. Surely it is not right that legislation in a religious matter, which is opposed by the majority of the community should be forced down their throats by the votes of a few persons assembled here" "Popular opinion should change before any legislation should be effected The law member gave a tall order to the Hindu community without making it legally possible for them to come to some kind of arrangement by helping to remove the legal bar. The bill which was only permissive in character was calculated to provide an opportunity for the Hindu community to make some adjustment and grant Harijans temple entry, when it was so minded. There was absoluttely no element of compulsion in it.

Rao Bahadur M. C. Rajah finding that the Sanatanists and the Government were strongly opposed to this Bill said, "I hope on a future occasion a measure of this kind will be passed".

The mover of the Bill Mr. C. S. Ranga Iyer was equally not hopeful of his motion being passed by the house. He said, "I am quite willing to follow that advice which

the Hon. the Home member and my friend the Raja Sahib of Kollengode had already given and that advice is this: when the Hindu community is ablaze, when the opposition is uncompromising, there is no use of forcing a piece of legislation like this through the house even if there was a chance for it. At present, I am sure the Hon. the Home member is not going to accept the dictum of the Mahatma that Christians and Muslims should not take part in this discussion much less when the voting takes place. The Hon. the Home member will be perfectly entitled, if I press it to a division, to vote against my Bill; he is not going to be guided in this matter by Mahatma Gandhi's dictum as his speech had made clear, and therefore the Congress people instead of issuing mandates to us will have to take a mandate from their people when their Constituent Assembly comes into existence. Meantime, I think we Hindus who want to keep the untouchables within the fold will also have to show to them that they are one of us."

Ultimately Mr. Ranga Iyer withdrew his Bill.

Rao Bahadur M. C. Rajah's Bill of 1935 to provide for the Removal of Social Disabilities among certain classes of Hindus.

This Bill was introduced in the Assembly on the 31st May 1935. According to the provisions of the Bill, no untouchable should be prevented, or disabled from being appointed to any public office or enjoying or having access to any stream, well, tank, pathway, convenience or transport or any other service which the general public belonging to all other classes of Hindus have a right to enjoy, or have access to, which is dedicated or maintained or licensed for the use of the general public or which is maintained or paid for out of the funds of the State or local Statutory authority. The Bill further provided that no civil, criminal or revenue court or public or local authority should in adjudicating any matter recognise any custom usage or prescription or under which it is sought to impose civic disabilities on untouchables.

(for the full text of the Bill with Statement of Objects and Reasons see Appendix VI).

The Bill was later on circulated for the purpose of eliciting public opinion but was not taken up for consideration as Mr. Rajah ceased to be a member of the Assembly soon after.

Thus the history of temple entry legislation in British India is not one of cheerful reading. Forces of reaction, conservatism and anti-nationalism have been blocking the progress of these Bills at every stage. It is earnestly hoped that in the provinces under the new dispensation the response to bills of this character will be more favourable.

Temple entry movement in the Indian States.

From this dismal chapter of British Indian history on Temple entry Legislation, we turn in refreshing contrast to the history of the Temple Entry Movement in the Indian States.

Baroda.

Some of the most important of the Indian States, for years past, have taken steps to remove certain disabilities and social practices that did not conduce to the healthy growth of the community. In the matter of opening all public temples to the untouchables some states have set an example for British India. About thirteen years ago the Gaekwar of Baroda issued a proclamation throwing open all the temples in his state to Harijans and thus by one stroke of the pen removed the disabilites under which Harijans were labouring for centuries past in his State.

Kolhapur.

In the State of Kolhapur the Maharaja issued the following circular on the 29th September, 1932.

"His Highness the Chattrapathi, the Maharaja Sahib of Kolhapur feels gratified that the citizens of Kolhapur encouraged those who were till to-day classed as untouchables to

enter into the temple of and make obeisance to Goddess Karvir Nivasam. The Kolhapur Government has from time to time passed legislation to remove the disabilities under which those till to-day called the untouchables, were living, and various orders have been passed for the amelioration of those classes. His Highness is extremely pleased to note that this policy of the Government has received the support of the public with whose consent untouchability is hereby being done away with. Henceforward it would not be necessary to classify any caste as untouchable and it was therefore ordered that the class untouchable be done away with. Henceforward all classes of Hindus will have equal rights of entering temples and making use of the public taps, wells, tanks, rest houses etc."

Sandur.

Similarly the ruler of Sandur a small State in the Madras Presidency issued a proclamation on the 17th November, 1932, on his birthday, removing untouchability, and appointed a standing committee to give effect to the proclamation. On the 7th of August, 1933, on Shravan Monday, which is considered very auspicious, the Harijans, for the first time in the annals of the State, entered the famous pagoda of Shree Kartheek Swami and had darsan of the deity along with the caste Hindus.

Aundh & Kashmir.

In Aundh State in Southern Maharashtra, Harijans may visit temples after a bath. In the North, in the State of Kashmir, the Maharaja issued a proclamation throwing open all the Hindu temples in the State to Harijans.

Mysore.

Mysore State has always been solicitious of the welfare of Harijans in the State. During the Dusserah festivities in October 1936 the late Maharaja of Mysore for the first time in the annals of Mysore invited Harijan members of the Assembly

to attend the Palace Durbar on the 26th and 27th October, 1936, who were till then by custom not invited to the Durbar. Again at the session of the Mysore Assembly in November 1936, Mr. Subba Rama Chetty moved a resolution recommending to the Government that Harijans be permitted to worship in all the Muzarai managed temples in the State. The motion was supported by prominent leaders of the State. The President of the Assembly in making the position of the Government clear said that they never entertained the idea that Harijans should not be allowed into temples, but that the time was not opportune. In view of the explanation offered by Government the mover of the resolution did not press the resolution. A similar resolution was again moved in the Mysore Assembly in February 1937 with no better result. It is regrettable, however, that no further progress has been made in this direction in the enlightened State of Mysore.

Temple Entry Campaign in Kerala.

The Central Board of the Harijan Sevak Sangh at its general meeting held from 6th to 8th February 1936 passed the following resolution :—

> "Since any further delay in securing temple entry for Harijans will result in great harm to Hindu Dharma and since such temple entry is part of the immediate justice to which the Harijans are entitled the Central Board of the All India Harijan Sevak Sangh resolved that effective steps be taken immediately for achieving temple entry for Harijans and with a view to achieve this purpose the Executive Committee be asked to take necessary steps in consultation with Gandhiji".

TRAVANCORE TEMPLE ENTRY PROCLAMATION.

As a result of the consultation with Gandhiji, an intensive campaign, to create public opinion in favour of temple entry

for Harijans, was organised between April and June 1936 throughout Travancore, Cochin and British Malabar. Shrimati Rameshwari Nehru and Sjt. G. D. Birla visited Kerala during the campaign and addressed meetings at many places on the temple entry question. Mrs. Nehru also presided over the Temple Entry Conference at Trivandrum on the 19th April. This campaign created public opinion which was overwhelmingly in favour of temple entry for Harijans. Soon after the campaign the Government of His Highness the Maharaja of Travancore threw open in May 1936 all schools, satrams, tanks and wells till then open to Hindus and non-Hindus to Harijans as well. This order was followed by the Temple Entry Proclamation by the Maharaja on the 12th November, 1936 by which Harijans have been given full and free access to Hindu places of worship and their appurtenances without any restriction whatsoever. This has been justly acclaimed as the greatest step taken to reform Hinduism since the time of Ramanuja, about six centuries ago.

The following is the text of the Proclamation.

"Profoundly convinced of the truth and validity of our religion, believing that it is based on Divine guidance and on an all-comprehending toleration, knowing that in its practice it has through out the centuries adapted itself to the needs of changing times, solicitous that none of our Hindu subjects should by reason of birth or caste or community be denied the consolations and the solace of the Hindu faith, we have decided, and hereby declare, ordain and command that, subject to such rules and conditions as may be laid down and imposed by us for preserving their proper atmosphere and maintaining their rituals and observances. there should henceforth be no restriction placed on any Hindu, by birth or religion on entering or worshipping at temples controlled by us and our Government."

This proclamation was followed by the publication of a set of rules regulating worship in the State – owned and public

temples. The rules provide for the observance and maintenance of customs and usages relating to worship and ceremonies obtaining in temples. The rules specify the classes of persons who shall not enter temples. All persons who are not Hindus, persons under pollution arising from birth or death in their families, drunken or disorderly persons, women at certain times, professional beggars etc, could not enter the temples. The rules also laid down in general terms the dress, behaviour of worshippers entering the temples, objects they are prohibited from taking into the temple, parts of a temple they are prohibited from entering etc. (for full text of the Rules *vide* Appendix VII). The Proclamation of the Maharaja of Travancore was received all over the country with great rejoicings. In January 1937 Mahatma Gandhi paid a visit to the State of Travancore and toured for ten days the entire State visiting and worshipping in all the important temples in the Sta e. He personally noticed that the proclamation had wrought a wonderful change in the life, attitude and behaviour of Harijans. He was satisfied beyond the shadow of a doubt that the rules framed for regulating worship in the temples were sympathetically administered and that all classes of people sincerely tried to follow the great lead given by the Maharaja.

The implications of this Proclamation have been very well explained by prominent Hindu leaders Sir. P. S. Sivaswami Aiyar presiding over a public meeting at Madras to celebrate this event observed as follows: "The present Government of Travancore is happy in the combination of all these requisites of reform. Where other rulers have hesitated, the young Maharaja of Travancore has taken courage into his hands and led the assault. The hour for laying the mine arrived and the man appeared on the scene. The rift caused by this proclamation will extend right through the length and breadth of India. It will have effects in other directions besides that of temple entry, in the direction of social and religious reform. It will raise the self-

respect of the depressed classes. It will diminish the cleavage that is a feature of the society at the present time and will contribute to the national cohesion and solidarity......... Restrictions on temple entry and untouchability may be explained on grounds of usage, sentiment or perhaps even of hygiene. But they have no connection with the essentials of religion." On 18th January, 1937, Sir. C. P. Ramaswamy Iyer, the Dewan of Travancore speaking at Shertally in the Travancore State on the Proclamation said, "Hinduism is not petrified or fossilized, but it is a living faith and adapting itself to the changing needs of the changing times as His Highness the Maharaja of Travancore's Proclamation proves". He further added that he regarded the Proclamation and the results of the Proclamation as the summation of the faith that animated a true Hindu, Christian or Musalman though there was no gainsaying the fact that the proclamation as evidenced by Dr. James Cousins recently in accepting Hinduism, had made Hinduism again a real universal religion as it had been in the past. Mahatma Gandhi after having seen with his own eyes the happenings in Travancore after the proclamation said, "I regard this proclamation as a true attempt, an outstanding attempt to rid Hinduism of the curse of untouchability. In issuing the Proclamation the Maharaja and his advisers have laid the axe at the very root of the poison of untouchability".

The Proclamation has lessons for all Hindus in British India and the Indian States. We must all fall in line with Travancore. With Provincial autonomy in the Provinces and nationalist minded patriotic Indians in the legislatures it must be very easy to throw open public temples in the country to Harijans. Public opinion in the country is overwhelmingly in favour of the measure. The first pious act of every Hindu legislator must be to secure for Harijans temple entry in his own province, by piloting a temple entry Bill in the legislature.

Opinions on the Proclamation.

Gandhij's Statement............November, 14th.

Gandhiji made the following statement on the Travancore Proclamation, which declared all temples open to Harijans:

"I tender my congratulations to the Travancore Durbar and their advisers on this over-due fulfilment of duty of a Hindu Prince as I have always conceived it to be. I hope that this good proclamation will be carried out in letter and spirit, so that Harijans may feel the glow of freedom and real oneness with their caste brethren, and I hope all other Hindu Princes will follow the noble example set by this far off ancient Hindu State."

"Untouchability, though an excrescence has taken such hold of the Hindu world that whenever a Hindu breaks through it and declares against it he excites the admiration among the reformers and becomes the object of fierce criticism from the orthodox. This is much more so when action is taken by one in high authority as His Highness the Maharaja of Travancore, an ancient orthodox Hindu State. Let us hope all criticism will be hushed before this well thoughtout deliberate act of piety and justicc."

Mahatma Gandhi replying to an address presented to him in Trivandrum said that the Maharaja had given them a new Smriti, one of the authoritative texts of Hinduism, and it was for them to carry it out, rise to the occasion and see that the great religious spirit underlying the proclamation pervaded the entire State". (at Trivandrum on January 13, 1937.).

Sjt. C. Rajagopalachariar :—November, 13th.

"It is no exaggeration to describe this proclamation as the most important and historic event that has happened within

the last 100 years." Mr. Rajagopalachari added that the Maharaja and the advisers who had taken this responsibility in guiding him in this bold, great and purely religious step had earned the gratitude of all lovers of Hinduism. It only remained for the good people of Travancore to cooperate with their Rruler to make Travancore a source of inspiration for the whole of India.........A bright day was dawning for Hinduism. He observed that he did not think that since the time of the great Asoka it had been the privilege of a person sitting on a throne to give a message of greater gladness and greater joy.

Sjt. G. D. Birla—Delhi, November, 13th.

"His Highness, by throwing open temples in his State has rendered tremendous service towards the purification of the Hindu religion. The Hindu community will be grateful to His Highness for giving this kindly lead. I hope that other Hindu rulers will also follow the Maharaja's example."

Sjt. D. P. Kaithan—Calcutta, November 13th.

The Proclamation could not but send a thrill of delight into the hearts of all parties and right minded Indians, whether Hindus, Muslims, Christians or those belonging to another religion. I confidently hope that other Princes and the Government of India will follow the same to the lasting benefit of the people in their charge ".

Srimati Rsmeswari Nehru—November, 17th.

"The opening of the temples to Harijans is a great advance in our battle against untouchability. It will revitalize our religion and put new life and strength into it. The Maharaja and the mother Maharani of Travancore have earned the gratitude of all Hindus for this great act of vindication of the Hindu Dharma. Mahatma Gandhi's lifelong tapasya has borne fruit at last ".

Dewan Bahadur R. Srinivasan, Harijan leader, Madras.

The Proclamation will raise the status of the depressed classes and will remove the blot of untouchability for which they, the depressed classes, would be grateful to the Maharaja. I fervently hope that other Indian States and Indian Statesmen in British India will follow the noble example of the Maharaja of Travancore.

Dewan Bahadur V. S. Subramania Iyer, Retired Dewan of Travancore.

By this Proclamation His Highness with his characteristic solicitude for the welfare of all his subjects and for affording equal opportunities to all has with boldness removed by one stroke of his pen an agelong grievance of a large section of the Hindu community.

Sri Changanacheri K. Parameshwaram Pillai, President of the Kerala Harijan Sevak Sangh.

This is a momentous step which His Highness has taken especially in view of the fact that untouchability was observed in a very much larger manner in Kerala than in other parts of India. His Highness has thereby saved Hinduism from the great blot of untouchability and all classes of His Highness' subjects have every reason to be grateful to His Highness, and His Highness' name will go down to posterity as a great Hindu social reformer of modern times.

Sir C. P. Ramaswamy Aiyer, Dewan of Travancore. November 13th.

To-day marks a unique occasion in the history of India and especially Hinduism. The head of one of the most orthodox Hindu States has taken a step for the regeneration of the faith which he deeply cherishes. This will be remembered

in the coming ages as a movement of renaissance. During many centuries Hinduism has displayed a tremendous inner vitality and grown and expanded from within adapting itself to the new circumstances while not abandoning its unique philosophy and special features. The History of Buddhism and Jainism and the various Vaishnava sects afford an indisputable proof of the dynamic and progressive character of the Hindu faith...........If, as I fervently hope and trust, His Highness the Maharaja of Travancore's example is followed throughout India, I feel very little hesitation in saying that the religious life of this country will not only be profoundly modified but the richness and variety of its contribution to the world thought and world philosophy will be much greater.

Sri T. R. Venkatarama Sastri, C.I.E., Ex-Law Member, and Ex-President of the National Liberal Federation.

"It is a lesson and a warning to the Hindus outside the Travancore State that the problem presented by these attempted conversions to the Hindu Society should not be dismissed as a mere political problem. It is a vital problem, vital in the sense that the evolution of society in all its aspects, mental, moral and spiritual, depends on the solution of the question of integrating and strengthening this section of the Hindu population.

The Manchester Guardian. November, 16th.

Travancore Temple entry announcement means that the right of untouchables to temple has been settled in principle in a state of five million inhabitants. The most interesting aspect is that although the individual temples have quite frequently been thrown open to the untouchables, this concession has been made on such generous a scale.

C. F. Andrews—Wardhagang, November 16th.

I cannot adequately express my delight at the glorious news that every temple in Travancore is now open to Hindus

of all ranks including the depressed classes. This is surely the consummation of the fast in Yeravda Jail four years ago of Gandhiji and it remains now to carry out to the farthest limit possible this splendid example.

Dr. B. S. Moonje—Hindu Maha Sabha, Nagpur.

Sent a telegram to His Highness the Maharaja, Her Highness the Maharani and Sir C. P. Ramaswami Iyer Dewan of Travancore, on the noble and large hearted pioneering concession of temple entry for the untouchables throughout the State saving Hinduism from the threat of extinction.

Sir Alladi Krishnaswami Iyer, Ex-Advocate-General, Madras.

It is a great event in the history of India. It is not an overstatement that this reform is the greatest in Hinduism since the days of Ramanuja. A bold and far reaching reform of this magnitude is rendered possible only by the complete power of the State in this behalf being vested in the head of the State unhampered by Constitutional and legal restrictions. One cannot help feeling that in some respects the location of sovereignty in a single head if only he is imbued with high ideals and fervent patriotism, may be of greater advantage than the rule of democratic majorities and it is possible for "autocratic" Indian States to act as examples to British Indian provinces in matters of religious and social reforms.

The event is also of great magnitude in that it demonstrates that the future of Indian federation is frought with great possibilities. We are entitled to look forward to Indian States making a solid contribution to the building up of the intellectual and moral greatness of future India, as British India on its side is certainly expected to do by both being members of a composite State. The young and enlightened ruler of Travancore and his patriotic versatile and energetic Dewan Sir C. P. Ramaswami Iyer deserve to be congratulated on the great reform that was being introduced into the State.

Sri A. Ranganatha Mudaliar—Ex-Minister, Madras and Ex-Commissioner, Tirumalai Tirupati Devasthanam.

Personally I feel that not only South India but All India has reason to be grateful to His Highness the Maharaja of Travancore and his trusted Dewan for the very bold and statesmanlike step they have taken in throwing open all State temples, among which are many ancient and sacred shrines, to the Harijans. I am sure that this measure on the part of the Travancore State will open the eyes of even the most orthodox among us and make them realise the inexpediency if not the futility of resisting the progressive spirit of the times. Undoubtedly this act of the Travancore State will lead the way for other States and institutions to follow its example.

Rao Bahadur M. C. Rajah, Harijan leader of Madras.

The order of His Highness declaring, ordaining and commanding 'all temples in the State without restriction to be thrown open to all Hindus not only by birth, but also by faith, carries out to the full the aim and spirit of the Poona Pact whose object was to enfold within the Hindu polity large groups of people who are on the fringe—doubting whether they belonged to the Hindu fold or not, and ready to go out wherever they could find fresh pastures and flowing water. This order also knocks the bottom out of any exodus movement intended to bring about a communal migration without personal religious conviction. It must also be regarded as a signal success achieved by the social reform movement started by Raja Ram Mohan Roy and carried on for over a hundred years by successive bands of social reformers in different parts of the country. It is also the response given to proselytising religions like Christianity and Islam by Hinduism with its capacity for endless absorption and its genius for adapting itself to changing environments".

The Zamorin of Calicut—Trustee of Guruvayur Temple.

The Zamorin Raja interviewed said—Section 40 of the Madras Religious Endowments Act emphasises the attitude of the trustees of temples. Any interference on the pa t of the trustees in the custom and usage of the property of the temples is legally wrong. Hence his difficulty in declaring open all his temples, about 200 in number to all castes. The only course left to us is to amend the Act, giving freedom to the trustees to act according to their discretion. Anyhow the proclamation of His Highness the Maharaja of Travancore would have very great effect on the orthodox in Malabar".

Prof. A. R. Wadia of Maharaja's College, Mysore.

This is probably the greatest event since the time of Lord Buddha in the history of India and of the Hindus in particular. The Maharaja of Travancore and his Dewan have given a lead which it is the duty of every Hindu interested in genuine Hinduism to follow up.

Sir P. S. Sivaswami Iyer of Madras.

The Proclamation of His Highness has taken a very broad minded view and recognised the possibility and desirability of persons not Hindus by birth embracing Hinduism and being admitted to the privileges and responsibilities of Hinduism.

Hindu Mahasabha—Delhi.

His Holiness Jagadguru Shankaracharyaji the President of the All India Hindu Mahasabha sent the following telegram to His Highness the Maharaja, Her Highness the Maharani and the Dewan Sahib of Travancore.

"Hindu Mahasabha offers sincere congratulations 25th Birthday. Courageous proclamation throwing open temples all Hindus".

Mr. P. Baloo, Harijan Leader—Bombay.

He felt overjoyed at Travancore Durbar's noble proclamation which is bound to destroy untouchability in the near future. The idea underlying the temple entry demand was mainly the removal of the feeling of superiority of caste Hindus and the inferiority of Harijans which would disappear if the distinction in the holy precincts of the temple were removed.

It is hoped that caste Hindus of Travancore and elsewhere will co-operate in carrying out the proclamation in spirit and strengthen the hands of reformers like Gandhiji

Sir Purshotamdas Thakurdas.

The year that will soon come to an end has witnessed a remarkable step forward in connection with the uplift of Harijans. That a conservative State of the standing of Travancore should have thrown open all the temples under the control of His Highness to Harijans is an epoch-making advance in the direction of recognising Harijans as an integral part of the Hindu fold. That the movement started by Mahatma Gandhi in such earnest has taken root and is not likely under any set of circumstances to die is beyond doubt. The Trvancore State enjoys the prestige of guardianship of Hinduism and Hindu temples of great antiquity, devotion and fame, and that thus great step forward should have been taken by that State is a matter on which every Hindu should tender sincere congratulations to Their Highnesses the Maharaja and Maharani and indeed to the distinguished Dewan Sir C. P. Ramaswami Iyer. The latest news in this connection says that the ancient temple of Padmanabha has also now been opened to the Harijan classes, and as a Vaishnav Hindu, it gladdens my heart to mark this substantial advance in the history of evolution of Hinduism as in keeping with the times and, as I understand it, without disturbing any of the essential tenets of Hinduism. One hopes that this shining example set by the Ruling family of Travancore will be earnestly followed by

every Indian State where the Ruler, has any authority, either legal. or moral, with the people.

Next comes Mysore.

It is useful to note of the steps which have been taken in this direction till now, in the states of Baroda and Mysore. It is generally forgotten that the Baroda State, under the enlightened guidance of His Highness the Gaekwar, had the State temples there open, years back, to the depressed classes. The importance of thus throwing open State temples in Baroda is, by no means comparable with the great achievement of the Travancore State, but it is a step which is to be noted because it was conceived and given effect to more than two decades ago, when the question of uplift of the Harijan classes was not so much in the forefront. His Highness the Gaekwar can, therefore, be said to be the pioneer, amongst Rulers, of Indian States, in this matter as among many others. Mysore too is slowly moving in the right direction. At the 1935 Dusserah, His Highness the Maharaja of Mysore started the wholesome innovation of inviting Harijans to his Dusserah Durbar, and the great significance of this should not be overlooked. The next step of throwing the temples in the State open to the Harijan classes will I hope, be taken without much delay by His Highness the Maharaja of Mysore, but the importance of the step taken at the 1935 Dusserah should not be minimised and it requires to be noted with sincere appreciation.

Fulfil Two-fold Tests.

I myself have felt that the test of the inclusion of Harijans amongst Hindus is two-fold: firstly, opening of what are said to be ' Devdwars" to them, and, secondly the opening of "Yamadwars" to them. I have already dealt with the first above, and I sincerely hope that the various "Smashanas" will be thrown open for the cremation of Harijans without unnecessary quibbling about it. To the average Hindu of to-day it is not understandable how a Harijan corpse is less fit to be

cremated in *Smashanas* where corpses of upper caste Hindus are cremated. If death knows no distinction of either class or position, the upper caste man, living on a low plane spiritually, should be considered as unclean as a Harijan, who is by force of custom, denied knowledge of *Shastras* and higher philosophy. As death is recognised in all religions to be the Great Leveller, the Hindu religion is exposed to great ridicule and misunderstanding by this artificial barrier of closing the "Yamadwars" to Hindus of certain castes When the opening of these two "dwars" is complete the Harijan will have no grievances left *vis-a-vis* the so-called higher caste Hindus, and I have no doubt that it will be a great deliverance to millions of the depressed classes from the injustice and the artificial isolation in which they have been kept, under the guise of religion for centuries now. When these two tests are truly understood by the upper-caste Hindus, it may be a day for Hindus to console themselves that they have stopped for good the almost inhuman injustice going on for generations,—one can only pray that that day may not be distant.

Opinion on the rules.

(See Appendix VII for Temple Entry Rules).

Sri Changanacheri K. Parameshwaram Pillai, President of the Kerala Harijan Sevak Sangh referring to the temple entry rules, says: Nobody can take any exception to the rules generally and many of them are absolutely necessary and even now are observed by temple goers. But I feel that rule 3 is rather vague and might lead to friction. It might be better if the Government themselves frame the by-laws under that rule and publish them for general information instead of leaving it to the Chief Officer of Devaswom who, in many cases, is a low-paid officer."

Sri Ullur S. Parameswara Iyer.

Rao Sahib Mahakavi Ulloor S. Parameswara Iyer says: I have carefully perused the new rules. The spirit underlying

them is quite as liberal as the one underlying the Royal Proclamation itself. No distinction whatsoever is made between one Hindu and another in the matter of entry and worship in temples and equal liberty is allowed to all wholesome observances and adequate provision have been introduced for maintaining cleanliness, purity of temple buildings and premises and I find that some rules are conducive to even more suitable atmosphere for prayer and meditation than we are having at present. Pollution and untouchability in the Hindu fold have now become things of the past and His Highness the Maharaja by this one act of courageous and far-sighted statesmanship earned the eternal gratitude of not only every Hindu but every son and daughter of India. There is not a single word in the rules to which any person who has faith in any religion can take objection."

Sri M. Govindan.

Sri M. Govindan, M.L.C., Ezhava leader, said that the rules were generally acceptable, but very much depended on how they were carried out. In rule 10, sub-rule (1) the words "and without customary caste mark" could have been omitted to avoid administrative difficulty as most classes now admitted to temples did not have any customary caste mark. Powers given to the Chief Officer of Devaswom under rule 3 relating to regulating time of entry, Mr. Govindan hoped, would not be exercised in any manner so as to indicate distinction by birth. Powers given to the Chief Officer of Devaswom were large and he hoped they would be exercised in conformity with the spirit of the Proclamation."

TEMPLE ENTRY BILLS AND THE CONGRESS MINISTRIES.

After sixteen years of non-cooperation the Congress decided to take up office in the second half of the year 1937. The Working Committee authorised the acceptance of office by the Congress in the provinces where the Congress party was in a majority in view of the assurance given by the then Governor General Lord Linlithgow on the 21st June 1937, that the Governors in the provinces would ordinarily be guided by the advice of their ministers. Thus in six provinces the Congress came to power and with the advent of the Congress Ministries in the provinces also began a new chapter in the history of temple entry legislation, particularly in the provinces of Madras, Bombay, the Central Provinces and the Berar, and the United provinces.

The Congress Ministry in Madras was responsible for the Malabar Temple Entry Act, the Temple Entry Ordinance and the Temple Entry Indemnity Act. The Ministry in Bombay passed the Bombay Harijan Temple Worship Act. In the Central Provinces a similar Bill was introduced in the Assembly, but it was not passed into an Act as the Congress went out of office soon after. In the U.P. an attempt was made to throw open the Badrinath temple to Harijans when a Bill dealing with the affairs of the temple came up for discussion before the Assembly. But on the assurance given by the Ministry that the interests of Harijans would be sufficiently safeguarded, the demand for temple entry was not pressed.

The Madras Ministry and Temple Entry Bills

The Province of Madras gave the lead in the matter of Temple Entry Legislation as in many others. On the 29th of September 1937, Diwan Bahadur M. C. Rajah introduced his Bill to remove the disabilities of Harijans in regard to

entry into Hindu temples. On the 17th August 1938, he moved that the Bill he referred to the Select Committee and in doing so observed that it was not a piece of compulsory legislation, but that it only provided for the practical expression of the people's desire when they wished to allow Harijans to join them in worship in their temples. The Bill did not seek to throw open the doors of temples to Harijans all at once, whether caste Hindus liked it or not. The Bill sought to give every congregation of Hindu worshippers the right of deciding the question of opening temples to Harijans instead of being dictated to by a majority. The Bill also contained provisions for creating a machinery for the education and ascertainment of public opinion and for giving practical expression to it. If in any locality the majority of caste Hindu Worshippers decided to open any of their temples in that area to Harijans, the Bill enabled them to do so even though a small minority might object to it. If the majority of the people did not favour this view, the Bill would compel nobody to throw open the temples to Harijans. These were the main features of the late Diwan Bahadur M. C Rajah's Bill.

Mr. C. Rajagopalachari the Premier with whose consent and at whose request the bill was introduced, to the surprise of all, opposed the Bill of Dewan Bahadur M. C. Rajah, Mr. Rajagopalachari observed that after the introduction of the Bill he had turned the matter over in his mind and it had struck him that advantage should be taken of the Travancore Temple Entry Proclamation to bring about automatically a similar change in the religious psychology of the people in Kerala including Cochin as the states of Travancore, Cochin and British Malabar "are an integral closely connected people not only speaking the same language, but following the same customs governed by the same religious institutions and closely knit with one another by relationship of blood as well." Therefore he said that it would be wiser for his Government to proceed from Travancore to Malabar along lines of least resistance and the easier path. Again the Premier observed

that untouchability of a most degrading kind was observed of all places, in Malabar. For did not Swami Vivekananda describe it as 'the land of lunatics' a land which was noted for its high scholarship in Sanskrit no less than for its practices of untouchability, unseeability and unapproachability based upon bigotry and orthodoxy of a narrow type. The Premier averred that circumstances for the early achievement of the end were most congenial in Malabar as Malabar had the unique advantage of being the most enlightened part of the Madras presidency, and therefore the Government could count upon the support of the enlightened citizens of Malabar to eradicate untouchability and throw open the temples to Harijans. On these grounds the Premier appealed to Dewan Bahadur Raja to drop his Bill as the Government themselves, he said, were shortly introducing a measure for Temple Entry in Malabar, in the first instance; the same measure to be extended later on to the other parts of the presidency. The Premier further observed that it would be a difficult task to throw open all the temples in the presidency simultaneously to Harijans and that they had to educate and enlighten public opinion and obtain the willing consent of the people for this reform, by liquidating their ignorance and superstition in the first instance.

Dewan Bahadur Rajah however was not prepared to withdraw his measure. He accused the Premier and the Congress Party of having betrayed the cause of Harijans. He said that public opinion in the province had been found to be most favourable to the Bill and therefore he saw no reason for the Government not to proceed with his measure. In the end Dewan Bahadur Rajah's motion to refer the Bill to the Select Committee was lost.

The Malabar Temple Entry Act 1938.

In pursuance of the undertaking given by him to the late Diwan Bahadur M. C. Rajah, the Premier Mr. C. Rajagopalachari introduced a Bill on 1-3-38 to remove the disabilities of Harijans in regard to entry into temples in the district of

Malabar (For the Bill See Appendix V.) The Bill was permissive in character. On the introduction of the Bill, Mr. T. T. Krishnamachari raised a preliminary objection that it was not within the competence of the provincial legislature to legislate on a matter relating to religious institutions as Lists 1, 2 & 3 of Schedule VII to the Government of India Act do not refer to religious institutions. In giving his ruling on the objection raised by Mr. Krishnamachari the Speaker referred to the relevant passage in the Joint Committee on Indian Constitutional Reform. The passage runs thus:—

"We do not think that the consent of the Governor should any longer be required to the introduction of legislation which affects religion or religious rites and usages. We take this view not because we think that in practice the necessity for such consent might prejudice attempts to promote valuable social reforms, which has been suggested as a reason for dispensing with it but because, in our judgment legislation of this kind is above all other such as ought to be introduced on the responsibility of Indian Ministers. We have given our reasons elsewhere for holding that matters of social reform which may touch directly or indirectly Indian religious beliefs can best be undertaken with prospect of success by Indian Ministers themselves; and that being so we think it undesirable that their responsibility in this most important field should be shared with a Governor It has been represented to us that the removal of the safeguard of the Governor's previous sanction may operate to the disadvantage of small minorities such as the Indian Christians who would not be in a position to make effective their objections to legislation which they regarded as prejudiced. But we do not think that the recommendation we have just made is in fact open to this criticism."

In the light of the opinion of the Joint Committee the Speaker over-ruled the objection raised by Mr. Krishnamachari and allowed the Premier to proceed with the Bill.

In dealing with the principles underlying the Bill the Premier said, that it was permissive in character and that it enabled Trustees of Temples in Malabar to throw open a temple to Harijans if the opinion of the majority of the worshippers was found to be in favour of such a step. According to the provisions of the Bill a Trustee or Trustees of a temple, on receipt of a requisition in writing signed by not less than fifty voters to throw open the temple to Harijans, should forward the said requisition to the Provincial Government who will in their turn direct the Trustees to refer the matter again to voters to ascertain their opinion. If a majority of voters are in favour of throwing the temples open to Harijans the Trustees should publish in the prescribed manner an order to the effect that the temple will thereafter be thrown open to Harijans.

For purposes of this Bill, all Hindu voters other than Harijan voters on the electoral roll of the Madras Legislative Assembly, for the time being in force in respect of the General constituency of the revenue taluk in which the temple is situated, including the Municipal areas therein, are entitled to vote on this issue. The trustees are also given power to notify to the public of their proposal to throw open the temples to Harijans. If within a month fifty voters prefer their objections to the proposal, the same should be forwarded to the Provincial Government, which will then direct the Trustees to ascertain the opinion of voters again on the question whether the temples should be thrown open or not. If within one month no objection to the proposal is preferred, or if a majority of voters favour the proposal the temples will be thrown open to Harijans.

Another important provision empowers the trustees of temples to throw open any temple to Harijans without reference to voters, within two years of the opening of a temple in the same revenue taluk, by the majority decision of voters.

The Select Committee added one clause to the Bill, by which if any family temple was to be included in the ambit of the Bill, the Provincial Government proposed to take power to examine such cases and exempt such temples if necessary from the purview of the Bill.

The Bill was discussed in the Legislative Assembly on the 8th December 1938 and was passed without any material change. Moving that the Bill be passed into law the Premier declared that with the Malabar Temple Entry Bill were bound up great issues and the future of Hinduism. He appealed to the members of the house to see that the measure when passed into law was put into effect in the best interest of the Hindu Society and temples were thrown open in Malabar willingly and peacefully so as to enable other districts to follow in the foot steps of Malabar.

The Bill as passed by the Legislative Assembly was passed by the Legislative Council on the 13th December 1938, The Premier in moving for the adoption the Bill asked for the blessings of the House of Elders. Two members of the opposition Mr. R. Narayanaswami Nayudu and Mr Manjayya Hegde raised some objections. Mr. Nayudu raised the same objection that was raised by Mr. Krishnamachari on the floor of the Legislative Assembly. But when the Premier told him how the objection was disposed of by the Speaker in the lower house, Mr. Nayudu again opposed the Bill on the plea that the Bill was absolutely unadequate and did not go far enough. Mr. Nayudu demanded a Bill for the complete absorption of of Harijans into the Hindu Society, but he did not make clear his ideas about Harijan absorption. Mr. D. Manjayya Hegde, a Jain who is a trustee of one of the most famous temples in South Kanara at Dharmastala, opposed the Bill as the collective opinion of the temple going public in his contituency was not in favour of the Bill. He pleaded that custom and usage, agamas and shastras were against the provisions of the Bill.

But among those who supported the Bill were Sri. K. V. Reddi, Rao Bahadur M. Raman, Mr. K. Madhava Menon and

Rao Bahadur N. R. Samiappa Mudaliar. Sir K. V. Reddi in giving his whole hearted support to the Bill said that the reform was long overdue and congratulated the Premier on his courage in bringing forward the Bill.

Rao Bahadur M. Raman gave his qualified support to the Bill and wished its scope was wider embracing the entire province without being restricted to Malabar. On this ground he described the Bill 'as anaemic and lifeless.' He also wished that the Bill was compulsory in character rather than permissive. He did not approve that the Bill should be applicable to temples with an annual income of not less than Rs. 5000, but that it should be made applicable to all public temples irrespective of their income.

Mr. K. Madhava Menon welcomed the Bill and assured the Premier that there would be no difficulty in Malabar in enforcing the Act. Rao Bahadur N. R. Samiappa Mudaliar welcomed the Bill on the score that something was better than nothing.

The Premier in replying to the debate said that it was unwise and suicidal for orthodox Hindus to stand against this measure. In the end the house passed the Bill into law.

The passing of the bill was characterised by the Premier C. Rajagopalachari as the crossing of the Rubicon. He thought that all temples in Malabar would be thrown open and that soon after the entire province would follow in the footsteps of Malabar. But a little reflection after eight years of the passing of this law will convince any one that the Premier was over sanguine in his expectations. But the prophetic words of Rao Bahadur M. Raman that the Bill was anaemic and lifeless have come true. The assurance given by Mr. Madhava Menon did not come true. Thus the high hopes entertained by the Premier were dashed to pieces. The feeling of disappointment to all lovers of this reform should have been the keenest, for it was in Malabar that Mr. Kelappan under

went a long fast for the opening of the Guruvayyur temple, it was in Malabar that a referendum was taken under the direction of Mr. Rajagopalachari, which was overwhelmingly in favour of temple entry and it was again in Travancore which has common cultural, linguistic, economic and ethnic affinity with Malabar that His Highness the Maharaja of Travancore threw open all the temples in his state to Harijans. Despite all these, it is regrettable that the move failed. It will not be wrong to say that the Act was still born.

It is a curious that not a single temple out of about fifty temples which came under the purview of the Act was thrown open. But the Act has removed the legal bar against Harijans entering temples and willing trustees throwing open them to Harijans. One could very well realise the feelings of disappointment and chagrine of the reformers when Malabar failed the country completely, even though the path was cleared of all legal obstacles. Nor can we, on a little reflection blame anyone when the legislation is permissive in character. Unless permissive legislations are followed up by regular and systematic propaganda in favour of them, they may not yield the results expected of them.

Temple Entry Ordinance.

Shrimati Rameshwari Nehru, the Vice-President of the All-India Harijan Sevak Sangh, Delhi and a prominent leader of the Women's movement in the country came to the Madras presidency on a Harijan propaganda tour. and also presided over the Temple entry conference held at Madura on the 13th June 1939; exactly six months after the Malabar Temple Entry Bill was passed by the Madras Provincial legislature. During her stay in Madura she met the Executive officer of the Sri Minakshi temple there and asked him to admit Harijans into the temple. Meanwhile the local Congress men and reformers were also bringing pressure on the Executive officer to throw open the temple. The Executive officer, at first said that he could not do so in the absence of any legislation permitting him to do so. Shrimati Rameshwari

Nehru, a true and sincere lover of Harijans was anxious that the temple of Sri Minakshi should be thrown open to Harijans without any avoidable delay, and seem to have spoken to that effect to the Congress Ministers in Madras. In fact Sri C. Rajagopalachariar the Premier who attended the Temple Entry Conference at Madura presided over by Shrimati Rameshwari Nehru, is reported to have told the Executive Officer of the temple that those temple officials who were against the temple entry would be dismissed and that the Government would order a special session of the Legislature if necessary to get an Indemnity Bill passed to protect the temple officials against whom any legal proceedings may be started by the enemies of reform if and when the temple was thrown open to Harijans. It is of interest to note that even the President of the Hindu Religious Endowment Board, it was said was not in favour of opening temples in the absence of any law permitting such entry to Harijans.

Till the 8th of July 1939 nothing was heard about temple entry in Madura. On that day at 8-50 A.M. the President of the Tamilnad Harijan Sevak Sangh Mr. A. Vaidyanatha Iyer with a party of Harijans entered the Temple and went to the Golden lily tank inside the temple and after finishing their ablutions visited the various shrines inside the Sri Minakshi temple. There were no doubt great rejoicings among the reformers and the Harijans. But the orthodox section was stirred to its depths and in the sequel a criminal complaint was filed ou the 11th July 1939 by Mr. Natesa Iyer a leading advocate and a Sanathanist against Mr. Vaidyanatha Iyer and his party, and against the Executive officer. The same day the Government of Madras published an Indemnity Bill. It would appear that the Bill was drafted well in advance and kept ready for publication as soon as temple entry was effected in Madura. But as the legislature was not in session, on the advice of Sri C. Rajagopalachari, the Premier, the Governor of Madras passed an Ordinance under Section 88 of the Government of India Act. The Section runs as follows.

" If at any time where the Legislature of a province is not in session the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such ordinances as the circumstances appear to him to require provided that the Governor:—

(a) Shall exercise his individual judgment as respects the promulgation of any ordinance under the section if a Bill containing the same provisions would under this Act have required his or the Governor-General's previous sanction to the introduction thereof into the legislature and

(b) Shall not without instructions from the Governor-General acting in his discretion promulgate any such ordinance if a Bill containing the same provisions would under the Act have required the Governor-General's previous sanction for the introduction thereof into the Legislature, or if he would have deemed it necessary to reserve a Bill containing the same provisions for the consideration of the Governor-General."

Explaining the scope of the Governor's Ordinance making power the Joint Select Committee of the Houses of Parliament on Indian Constitutional Reform observed in their report as follows.

" We notice that the White Paper also proposes that the Governor shall have power to make ordinances for the good Government of the Province at any time when the legislature is not in session, if his Ministers are satisfied that an emergency exists which renders such a course necessary. Such an ordinance is to be laid before the Provincial Legislature and will cease to operate on the expiration of six weeks from the date of the re-assembly of the Legislature unless in the meantime the legislature (both chambers) has disapproved it by resolution, in which case it will cease to operate forthwith."

The promulgation of the ordinance by the Governor on the advice of Sri C. Rajagopalachari was severely criticised by

several sections of the public. The Congress, which had condemned in no unequivocal terms the Governor-Generals ordinances, it was said, should not have resorted to the same weapon to legalise an illegal course adopted by the temple officials; that there was an unseemly haste to achieve temple entry somehow on the part of the Congress Ministry; that the circumstances envisaged both by the Government of India Act and the Joint Select Committee did not exist to warrant the issuance of an ordinance, that "it was unjustifiable and unconstitutional amounting to a flagrant abuse of the power intended for meeting emergencies quite different in character and from the situation at Madura for which it has been invoked"; that in effect the Ordinance prorogued the law and the law courts and abrogated the law temporarily though it was at the will of the Ministry; that it was against the spirit of the constitution and should therefore be revoked.

These criticisms did not avail with the Congress Ministry, but the Ordinance effectively put an end to a crop of litigation both civil and criminal that had been launched against the participants in the temple entry at Madura. It must also be stated in passing that Mr. Rajagopalachari had the solid support of his party in the legislature. The progressive section too among the Hindus tacitly acquiesced in the Ordinance as their sympathies were with Harijans. But an influential section among the public who valued the means as much as the ends felt that the powers under Section 88 of the Government of India Act should not have been invoked for achieving a great moral and religious purpose. [For text of the Ordinance *vide* Appendix IX.]

The Temple Entry Indemnity Act 1939.

In the August session of the Legislature, the Premier C. Rajagopalachari introduced the Temple Entry Indemnity Bill on the 4th August 1939. [For the full text of the Bill *vide* Appendix X.] In doing so he adverted to the circumstances

necessitating the issue of the Ordinance and the introduction of the Bill. He remarked that temple entry reform was long overdue and when temples were opened as was the case in Madura it was impossible for the Government to remain quiet without preserving the gain and furthering the cause of reform. So the Indemnity Bill was calculated to enable temple trustees to respect public opinion whenever that opinion was in favour of allowing the entry of the excluded classes into the temple although custom and usage may be opposed to such entry. Anticipating the lines of attack by the opposition Mr. Rajagopalachari said that the plan of the Malabar Temple Entry Act had not been abondoned, and that it would certainly come into play where the trustee was unwilling to act in consonance with general public feeling. Despite the many amendments moved by the members of the apposition the Bill was passed without much change. But the amendments moved by the Premier were accepted. The Opposition, in the main, sought to introduce the principle of referendum for ascertaining public opinion, on the lines of the Malabar Temple Entry Act. The Premier while not opposing the principle as such contended that it was unnecessary to provide for the same method in more than one legislation. The principle of the vote he said would be applied whenever found necessary. But the method of eliciting public opinion by the Trustee or authority through personal contacts among the people concerned would in his view be generally more satisfactory as it would eliminate the chances of confusion and conflict that might arise in the ballot procedure. An agreement by understanding he urged was much better than the determination of the issue by mechanical majorities. Moreover it was not easy to stipulate what should constitute the deciding majority. The Premier however assured the house that both methods would stand side by side and would be resorted to as and when required and that the Government might be trusted to act properly. He said that there was no political motive behind the Bill that it was conceived in a purely religious spirit and that it was in that spirit that he sought the co-operation of all in eradicating the long standing and

obstinate customs The Bill was passed by the Legislative Assembly without any change worth the name.

When the Bill as passed by the Legislative Assembly came up for consideration before the Legislative Council. the Premier in moving, that the Bill be taken into consideration, said that he was a friend of the temple entry movement and that the reform should be effected with the least possible delay. The Rt. Hon. V. S. Srinivasa Sastri opposed the motion and said that the Bill was a highly irregular and improper method to achieve a great social reform. He declared that a Government which lightly introduced an Indemnity Bill to carry out a piece of social reform was not to be trusted with the power of declaring whether in a given case the trustees opinion was formed on proper or sufficient grounds. Mr. Sastri characterised the Bill as a legislation superseding and cancelling the Malabar Temple Entry Act and asked whether the supplementary method as the Premier called it, carried with it the guarantee that it would be unattended, not merely by any physical disturbance, but by what was far more important, discontent of the heart which could not express itself. If the principle of the Bill was conceded, Mr. Sastri feared there was nothing to prevent the Ministers from applying it to agrarian and economic reform having regard to the huge and 'servile' majority behind them. The Hon. Sir K. V. Reddi said that in his view the Prime Minister had done the right thing under the circumstances and deserved public approbation for acting with courage in dealing with an unfair, unjust and wicked custom. The Hon. Mr. T. C. Srinivasa Iyengar opposed the Bill vehemently and observed that it should not be left to the trustees to gauge public opinion and it was dangerous. He suggested that a representative commission might be set up for the purpose. After some other speakers had spoken for and against the Bill, and the Premier having replied to the various points raised by the opposition, the Bill as passed by the Legislative Assembly was passed.

It may be mentioned in passing that as a result of the two legislative enactments and the ordinance several small temples in the province were thrown open to Harijans. The Kallalagar temple in Madura, the temples under the control of the Tanjore Prince, the Courtallam and Palani temples were thrown open. But most of the major temples in the land continue to be still closed to Harijans.

All that the Congress has done is to remove the legal bar against temple entry for Harijans, but neither the Congress party, nor the reformers took advantage of the enactments to achieve temple entry for Harijans all over the country. It will therefore be no exaggeration to say that the result has been more spectacular than—substantial.

The Bombay Harijan Temple Worship Act 1938.

Bombay was the second province to pass a legislation in respect temple entry. Mr. K. M. Munshi, one of the Congress Ministers, introduced the Harijan Temple Worship Bill on the 24th January 1938 in the Bombay Legislative Assembly. In introducing the Bill, he said that though the Bill was short it was wide enough in scope. The real way to solve the problem in his opinion was to make the trustees the barometers of the conscience of the worshippers. After all, he said, "the Trustees or the managers of a temple are drawn from the most active worshippers. They know at least the regular worshippers, they know their feelings and hence they would be the right men to give decision whether the worshippers conscience would permit the temple to be thrown open to the Harijans or not." He made the Trustees the deciding factor in throwing open the temples!

The Bill was made applicable to the entire presidency of Bombay unlike the Malabar Temple Entry Act. Under this Bill a Trustee or the majority of Trustees can declare in writing that the particular temple in question shall be open to Harijans to whom such temple was not open for the performance of

worship before, subject to some general conditions applicable to all worshippers. Such a declaration by the Trustees shall be forwarded to the court within whose jurisdiction the temple is situate. On receipt of the declaration the court shall cause such declaration to be published in the official gazette and in the vernacular newspapers of the district.

The declaration so published shall be irrevocable subject to S. 5 and the publication of the declaration in the official gazette shall be conclusive evidence that the temple is open to Harijans for worship. Section 5 deals with the setting aside of the declaration, (1) when the person or persons acting as a trustee or trustees was or were not entitled to act as such; (2) when the declaration was not made by a majority of the trustees. Such a declaration however will take effect on the expiry of 3 months from the date of its publication if in the meanwhile no application is filed to set aside the declaration.

The Bill also contains a penal provision. Anyone preventing a Harjan from entering the temple after the declaration is made shall be punishable with a fine which may extend to Rs. 200, and in case of a continuing offence with an additional fine which may extend to Rs. 20 every day after the first offence during which he has persisted in the offence.

The Bombay Act is on the whole a much more satisfactory and practical one than the Malabar Temple Entry Act.

One gratifying feature of the Bombay Bill was that it received the warmest support from every section of the house. Mr. R. R. Bhole, the Harijan member characterised the Trustees as middle men and wanted an unqualified measure.

Ultimately the Bill as it emerged from the Select Committee was passed by the Legislative Assembly on the 1st February 1938 without any opposition. When the Bill as passed by the Legislative Assembly came up for consideration

before the Legislative Council, it was again warmly supported by members like Dr Solanki, Dr G. S. Mahajani and Mr R.G. Pradhan. Mr. B. N. Karanjia who wanted the Bill to be published for eliciting public opinion later on withdrew the Bill when another member, Mr. S. R. Davar, criticised Mr. Karanjia for his dilatory tactics especially when the whole house was in favour of the Bill. The Council passed the Bill as passed by the Assembly.

The Central Province Temple Entry Bill

The Congress Ministry in the Central Province introduced a Bill called the Harijan Temple Worship (Removal of disabilities) Bill on the 20th April 1939 and referred it to the Select Committee on the 16th August 1939. (For the Bill See Appendix XII).

The Bill was based on the Bombay Harijan Temple Entry Act and was an enabling measure. Its object according to the Statement of Objects and Reasons was to remove all legal difficulties in the way of those trustees of public temples who desire to throw open their temples to Harijans. Its object was to enable them to do so notwithstanding anything contained in the instrument of trust, or the terms of dedication or a decree of a competent court or any custom, usage or law, by filing a declaration in the proper court. The Minister in charge of the Bill, Pandit D. P. Misra, said that the Government preferred to secure temple entry for Harijans by persuading Caste Hindus to throw open temples instead of compelling them by statute to throw open the temples; for legal compulsion would result in violence and conflict frustrating their objective. Pandit Sukla the Premier observed that the Bill sought to remove external barriers in the way of Harijans entering temples. He also said that legislation alone could not solve all difficulties and remove the disabilities of Harijans. He observed that the pace of reform must necessarily be slow and public opinion had to be ascertained at every stage of a social reform measure of this kind.

The Bill however could not reach the consideration stage by reason of the suspension of the constitution in the province in November 1939.

Conclusion: The various legislative measures relating to temple entry to Harijans sought to promote temple entry by a process of slow education of public opinion. It may now be taken for granted that public opinion is overwhelmingly in favour of temple entry for Harjans and insistent that temples should be thrown open to all Hindus by faith and birth, including Harijans, freely without any condition whatsoever. The new Congress Ministries should bring forward a short, simple and uncomprising measure without any condition attached to it, throwing open all Hindu temples to Harijan automatically, and making it penal for anyone to prevent any Hindu by faith or birth, including a Harijan from entering the temple.

SUPPLEMENT I.

Nellore Harijan Worker's Fast

One Potti Sriramulu a Harijan worker undertook a fast recently (on March 7th) in connection with the entry of Harijans into the Venugopalaswami Temple at Nellore. He broke his fast on an assurance from the trustees that after obtaining the permission from the Government they would throw open the doors of the temple to Harijans.

In that connection Mahatma Gandhi issued the following statement:—

"Shri Sriramulu is an unknown poor Congressman and a servant of humanity working in Nellore. He has been labouring single-handed for the cause of the Harijans of that place. Shri Sriramulu has been quietly and persistently working for the removal, root and branch, of untouchability.

He has been trying to have a temple opened to Harijans. He asked me the other day whether, in order to awaken public conscience in favour of such opening he could, if all other efforts failed, undertake a fast. I sent him my approval.

Now the place is astir. But some persons have asked me to advise Shri Sriramulu to suspend his fast for removing legal difficulties of which I have no knowledge. I have been unable to give such advice.

As I am anxious that an unobtrusive servant of humanity may not die for want of public knowledge and support I bespeak the interest of the journalists of the South, if not of all India, to find out for themselves the truth of the matter and, if what I say is borne out by facts, shame by public exposure the opposing parties into doing the right and save a precious life."

Mahatma Gandhi wrote the following letter on March 17th from Poona to Mr. Potti Sriramulu Chetty, a Harijan sympathiser of Nellore. "I write in English because others may understand what I have written. Here is a letter from G. Ramachandra Rao. Your fast is good. I know you are suffering. I do not mind it. I am doing all I can to reach a proper solution on merits. Your fast is intended or should be intended only to quicken lazy conscience if conscience can ever be lazy. If what Ramachandra Rao says can be sustained you may postpone the fast as distinguished from abandoning it altogether. If approval by the Provincial Government is necessary, and if the trustees honestly work for it there is no occasion for the fast I hope you will survive the ordeal.

Yours,

(Signed) BAPU.

Since this was written, your wire was received. I hope this means that the opening is a certainty."

Trustees Agree to Throw Open Temple to Harijans.

Nellore Mar. 17.

A Special Representative of the "Indian Express" met Mr. Sriramulu and explained to him Sec. 79 of the H. R. E. Act which wanted the authorities to respect the customs of the

place and also Sec. 3 of the Temple Entry Indemnity Act which required prior sanction of the Government for throwing temples open to Harijans.

Looking emaciated and lying exhausted on a mat on the ground in an improvised hut near the Sri Venugopalaswamy Temple in Mulapet, Sri Potti Sriramulu greeted our special representative, and asked him to sit down. He was evidently pleased at the great interest his fast had caused in the temple entry movement.

Speaking in a subdued tone Sri Sriramulu, told our representative that the time had come for the Caste Hindus to break from the thraldom of orthodox traditions in the matter of offering freedom of worship to all, irrespective of caste, in the Hindu shrines. He had undertaken the fast because he felt strongly in the matter.

Legal Difficulties.

Our special representative pointed out that while it was no doubt true that each generation and each crisis required new laws, awe and respect for law where highly desirable as they were the foundations of civilised society.

Under Sec. 79 of H. R. E. Act of 1926 "save as otherwise provided in or under this Act nothing herein contained shall affect any established usage of a mutt or a temple or the rights, honours, emoluments and perquisites to which any person may by custom or otherwise be entitled in such mutts, or temples". Thus the Act did not permit of any infraction or deviation from established custom.

But the Temple-Entry Authorisation and Indemnity Act of 1939 provided for a limited opportunity of temple entry for Harijans. According to Sec. 3 of the Act "If in the opinion of the trustee or other authorities in charge of any Hindu temple in the province, the worshippers of such temples are not opposed to the removal of the disability imposed by custom or usage on certain classes of Hindus in regard to the entry into

or offer of worship in the temple, such trustees or other authorities may, with the approval of the Provincial Government and notwithstanding anything contained in the H. R. E. Act or any other law, throw open the temples to such classes, and thereafter persons belonging to such classes shall have the right to enter the temple and offer worship in it".

It would thus be evident that before a temple could be thrown open to all classes, two conditions had to be fulfilled—first, that the trustee must be satisfied that public opinion was not against such entry, and secondly, there must be prior approval of the Government.

Wire to Gandhiji

Shri Sriramulu said that if there was sufficient sanction behind such moves and there was present the necessary urge on the part of the temple authorities to have the portals of temples thrown open to all, the legal difficulties could be easily overcome. Besides, the Congress Ministry would be wielding power very soon and a slight deviation from strict legal formalities in such important issues would certainly be rectified or condoned by them. He felt that some of the trustees, at any rate, of the temple were not earnest in the matter and that was another reason why he fasted. Further, he had Gandhiji's blessings. He however felt satisfied that his fast had focussed public attention on the temple entry movement and that at any rate hereafter the trustees could go ahead in that they had public opinion to back them up.

Mr. Sriramulu Reserves right to fast

Mr. Potti Sreeramulu Chetti in an interview to the A.P.I. before breaking his fast said: " There is overwhelming support among the public for the entry of Harijans into the temple. This has been amply proved during my fast. If at all the trustees have now come forward with their written consent, it is mainly because of fear of public opinion, Gandhiji's telegram and the present Assembly election situation. But I

have chosen to break the fast in view of the desire of the public to that effect. I always bow before public opinion. I have been able to learn three things during my fast. First, there is overwhelming public support for the cause which I have undertaken; secondly, the local Congress leaders are indifferent towards this, and thirdly, the intention of the trustees in inviting Gandhiji has been motivated by the desire for publicity rather than the desire to help the cause of Harijan entry. Even though the trustees have not taken steps to open the temple to Harijans, public opinion has been greatly strengthened in this direction, and I reserve my right to fast whenever it is felt necessary."

Gandhiji's Statement

Poona, March 17

Mahatma Gandhi has issued the following statement: "Shri Sriramulu has yielded to public pressure and has broken his fast on Sunday. A legal formality is necessary before opening the temple".

SUPPLEMENT II.

Federal Court Holds Madura Temple Entry Act Valid.

New Delhi, March 21.

Arising from the entry of certain members of 'excluded class" into the temple at Madura, an appeal was heard before the Federal Court. The main constitutional issue on which arguments were advanced whether the Madras Temple Entry Authorisation and Indemnity Act of 1939 is within the competence of the Madras Legislature and whether it is valid.

Mr. N. Natesa Ayyar with Mr. T. L. Venkatarama Ayyar argued that the Provincial Legislature had no power to enact such legislation inasmuch as the subject dealt within it was not within the provincial or the concurrent list. The relevant entry in the lists referred to charitable and religious endowments and to charitable institutions alone, and did not refer to religious institutions.

Sir Alladi Krishnaswami Iyer who appeared for the Trustees of the Madura temple argued that the term 'charitable endowment' was comprehensive enough to include temples and that the Madras Government had ample power to enact the law.

Mr. K. Raja Iyer, Advocate-General, Madras supported Sir Alladi's contention, and referred to various items in the lists to show that the expressions used should not be given a distinct or disjunctive sense. The lists must further be construed liberally.

All-India Importance.

Mr. T. L. Venkatarama Iyer in his reply said that the contention of respondents would completely deprive the Central Legislature of the power to deal with religion and since religion was a matter of All-India importance, such a construction should not be adopted.

The Case.

It is stated on July 8, 1939, five of the defendants surreptitiously entered into the *Ardhamandapam* of the temple at about 9 a.m., when the temple was expected to be and was in fact empty, offered worship in violation of the laws of agamas and the immemorial usages regulating worship therein. According to these rules only Brahmins can offer worship from the *Ardhamandapam*. Five of the defendants who entered the place of worship belong to the excluded classes. When asked by the *Bhattars* in charge to arrange for the removal of the pollution caused by the said entry and the subsequent entries of other numerous members of the excluded classes, the first defendant, who was the Executive Officer and Trustee of the temple refused to do so.

Consequently, the doors of the *garbha graham* were locked for arresting the growing desecration and defilement. The first defendant broke open the locks, suspended and dis-

missed the *Bhattars* one after another for breaches of duty and disobedience of orders, and caused worship to be performed by unqualified outsiders.

The Federal Court dismissed the appeal. The Court held that the Madras Temple Entry Authorization and Indemnity Act of 1939 under whose provisions the excluded classes entered the temple, was valid and within the competence of the Madras Provincial Legislature.

The judgment says: "In our judgment the Madras Provincial Legislature had power by virtue of Entry No 34 in the List of the Government of India Act to legislate in respect of religious institutions within the Province of Madras in the manner in which they voted to legislate by the Act in question in this case. It was argued that the fact that the legislation would affect rights claimed by Hindus domiciled outside the Province of Madras would also make the Act '*ultra vires*'. There is nothing in this point. Any rights affected are rights in respect of the temple at Madura which can only be exercised within the boundaries of the Province of Madras.

"It was also argued that Section 298 of the Constitution Act prohibited any such legislation as that contained in the provisions of the Act in question. Even if we were prepared to agree with counsel for the appellants that any rights of his clients which have been affected by the legislation in question were "property" within the meaning of that word in the section to which we certainly are not prepared to commit ourselves.

It is clear that the challenged legislation does not amount to a prohibition of the holding by his clients of such property on grounds only of religion.

"In our judgment, therefore the Madras Temple Entry Authorization and Indemnity Act 1939 was validly enacted by the Madras Provincial Legislature, having regard to the powers of legislation conferred on Provincial Legislatures by the Government of India Act 1935, and in particular Entry No. 34 of List 2.

"In our judgment the word "charities" is an appropriate generic term of wide scope and meaning apt to include all public secular charitable and religious trusts and institutions recognised as such by the British Indian Law, and a power to legislate in respect of all matters connected with religious charities and institutions"—A.I.I.

SUPPLEMENT III.

(From the Travancore State Manual Vol. I, Page 539.)

Sri Narayana Guru Swamy's Services.

"In Travancore, the movements for the mitigation of the severities of caste if not its total abolition have been popular. The teachings of Sri Narayana Guru Swami gave momentum to the forces which were generated by the extension of education among the masses and the tolerant policy pursued by the State in recognising the legitimate claims of backward communities.

The Garu was a man of deep piety and great learning well up in yoga practices. But being of the view that temples were necessary for the average individual he consecrated many shrines in Travancore which were not only open to members of his community but to those who belonged to other castes. He established a Sanskrit College and a Mutt at Alwaye. In 1911 the temple of Sarda at Sivagiri was consecrated. The Swami's activities stopped the tide of Charistian conversions in the community and several who had become Christians were reconverted to Hinduism.

"The persistent and selfless efforts of Sri Narayana Guru Swamy the spiritual leader of the Illavas coupled with his great organising capacity enabled him and his disciples to overcome all initial difficulties and pave the way for the establishment of the S. N. D. P. Yogam., which with its numerous branches working in different parts of the State watches the interest of the Illava community and works for their social moral educational meterial and political advancement".

Vol II Page 766.

The Promulgation of the Temple Entry Proclamation-one of the first acts of the new administration was a reform of far reaching importance not only to the teeming million of His Highness' subjects but a momentous act of emancipation and hope to the whole of India. "Profoundly convinced of the truth and validity of Our Religion believing that it is based on divine guidance and an all comprehending toleration knowing that in its practice it has, throughout the centuries adapted itself to the needs of changing times, solicitous that none of Our Hindu subjects should by reason of birth or caste or community be denied the consolations and the solace of the Hindu Faith". His Highness the Maharajah had earlier in his reign commanded the appointment of a committee to examine the question of Temple entry for the Avarnas, to find out the extent of the demand for reform, to ascertain the attitude of Sawarna castes to examine the question in the light of the Hindu scriptures and formulate proposals as to the lines on which the reform might be effected.

The committee expressed their considered opinion that a Parishad of learned persons, well versed in the theory and practice of Hinduism, should be summoned and that the reform might be effected by the Sovereign with their approval. They also suggested certain methods by which the rigour of the custom excluding the Avarnas from the temple might be softened. But the Maharaja and his advisers did not believe in half measures. With a courage strengthened by genuine conviction and an outlook which no Indian monarch had been able to entertain for a couple of thousands of conservative years, His Highness the Maharaja Sri Chitra Thirunal affixed the Sign Manual to the momentous Proclamation. It was on the eve of his Highness' birthday in 1112, the twenty-fourth birthday that the edict was promulgated.

The Proclamation was received throughout India with delight and admiration. It was welcomed by the whole civilised

world. To the Hindus it was a matter for pride and fresh hope. The repercussions of the proclamation were so great that the Christians and Muslims were equally warm in giving it a hearty reception. Sachivottama Sir C. P. Ramaswami Aiyar referred to the day of the Proclamation as a unique occasion in the history of India and specially of Hinduism. "No longer", said he, with legitimate pride, "can the reproach be levelled against Hinduism that the professors of its own doctrine are treated as outside the pale of its society. It will be observed that His Highness in taking this step, has not omitted to take into account the imperative necessity to keep in tact the *genious loci* and the atmosphere of temples. He was also anxious that centuries old observances and rituals which mark the traditional continuity of Hinduism should be kept in tact and all their grander appeal to emotions intellect and spirit should be preserved". Gandhiji expressed the hope that "all other Hindu Princes would follow the noble example set by this far off ancient Hindu State". The Premier of Madras described the Proclamation as the "greatest religious reform in India after the time of Asoka".

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APPENDIX I.

Mr. M. R. JAYAKAR'S BILL OF 1930.

"BILL TO REMOVE DISABILITIES AFFECTING UNTOUCHABLE CASTES OF THE HINDU COMMUNITY."

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Whereas by usage and custom prevalent in the Hindu community certain castes of Hindus are regarded as untouchable and unfit for association; and

Whereas this imputed impurity imposes serious disabilities on such castes, injures their self-respect and general well-being, and deprives them of the benefit of institutions, foundations, conveniences and services dedicated to or maintained for public use; and

Whereas many Hindus believe that such imputed impurity is not in accordance with the true interpretation of the precepts of Hinduism and desire that the said disabilities should be removed: and

Whereas it is just and proper to relieve all such castes from the said disabilities, in order that such relief may tend to the promotion of the public welfare and the solidarity of the Hindu community, it is enacted as follows:—

1. This Act may be called the Hindu Untouchable Castes (Removal of Disabilities) Act 193 .

2. It extends to the whole of British India.

3. It shall come into force on the 1st day of......193 .

4. No person belonging to the Hindu community shall be deemed to be incapable by reason of his caste, of sharing the

benefit of a religious or charitable trust created for the general benefit of persons professing the Hindu religion, or for sharing the benefit of a convenience, utility or service, dedicated to or maintained or licensed for the use of the general public, any custom or interpretation of the law to the contrary notwithstanding.

Statement of Objects and Reasons.

1. The Bill is intended to remove the disabilities, too various to be detailed here, from which castes known as "untouchables" in Hindu society suffer. These disabilities mostly arise from custom. The preamble of the Bill states the grounds which have made its provisions necessary. To these grounds may be added the significant circumstance that British Indian adjudication, respectful as it often is of Hindu usages, has tended to confirm the customs, which have had the effect of excluding the untouchable classes from participation in the benefits of endowments in which it is but just, that they, as members of the Hindu community, should participate. One ruling of the Privy Council, in Sankaralinga Nadar and others (appellants) and Raja Rajeswara Dorai and others (respondents) reported in 35 Indian Appeals, page 176, has gone the length of laying down, with all the authority of that august tribunal and the eminent judges who formed the Bench on that occasion, a rule, which in effect provides that the duty of the Trustees of the Hindu Religious Endowment is to follow the ancient custom; it is not for them to vary it, however unreasonable or antiquated it may be, and if they endeavour to alter it, they may be guilty of a breach of trust.

2. The result of these rulings, consequently, is that it is difficult to obtain, through the medium of adjudication, a variation of the customs which prejudicially affect the untouchable classes, injure their self-respect, and deprive them of the benefits of association with other sections of the Hindu community. This has resulted in a disruption of the Hindu

Society, the extent of which tends to increase, causing irritation and embitterment. It is therefore thought desirable to have recourse to legislation, and with its aid to abolish all such objectionable customs, to the extent mentioned in the Bill. The Bill affects only those cases in which the bar against the untouchable classes arises by reason of custom, and the endowment is a public one. The Bill will not affect private endowments, nor those where, by the express terms of their constitution, their benefits are confined to the particular section of the Hindu community or of the general public.

3. The Bill also provides for the removal of disabilities from which the untouchable classes suffer in the use of conveniences like public wells or services like tram cars, buses etc., which are maintained or licensed for the use of the public.

APPENDIX II.

Text of the resolution moved by Dr. P. Subbaroyan in the Madras Legislative Council on Temple Entry for the Depressed Classes on 1st November 1932.

This Council recommends to the Government that they may be pleased.

1. To recognise the strong and growing public feeling in the Hindu community that disabilities hitherto imposed by usage on certain classes of the community in regard to social intercourse and common worship at temples should be removed and justice rendered to them.

2. To take advantage of the great impetus given in this respect by the settlement arrived at, at Poona among the leaders of the communities and the consequent agitation in the country that places of public worship should be thrown open to the so called Depressed Classes and

3. To bring up legislation setting at rest and removing if necessary the doubts and disabilities which trustees and other persons holding authority in the administration of Hindu temples feel in regard to throwing them open to the said classes with necessary safeguards for the making of regulation for maintaining order and cleanliness in temples and also the performance of ceremonies according to the usage of the temples.

APPENDIX III.

Dr. SUBBAROYAN'S BILL OF 1932.

A BILL TO REMOVE THE DISABILITIES OF THE SO-CALLED DEPRESSED CLASSES IN REGARD TO ENTRY INTO HINDU TEMPLES.

The Bill.

Whereas it is increasingly felt by the Hindu community that the disabilities imposed by custom and usage on certain classes of Hindus in respect of entry into their temples should be removed.

And whereas doubts have been entertained whether Trustees and others in charge of the management of such temples have power to make any innovation contrary to the established custom or usage of the temples.

And whereas it is expedient that the law as administered by the courts should no longer prevent a trustee from allowing to any class of Hindus, who might have been excluded from a temple under his management, entry into such temple, if the Hindu community in the locality is generally minded to allow such entry.

And whereas it is necessary to provide legal machinery for ascertainment of the opinion of the Hindu community in regard to such entry.

And whereas the sanction of the Governor-General has been obtained to the passing of this Act.

It is hereby enacted as follows :—

1. (1) This Act may be called the Temple Entry Disabilities Removal Act 1933.

(2) It shall come into force on the 1st day of March 1933.

2. In this Act, unless there is anything repugnant in the subject or context.

(1) 'Board' shall mean the Board of Commissioners constituted under Section 10 of the Madras Hindu Religious Endowment Act, 1926;

(2) 'Excluded Caste' shall mean any caste or class of the Hindu community excluded by reason of established usage or custom from entering temples;

(3) 'Temple' shall mean a place, by whatever designation known, used as of right as a place of public worship by the Hindu community generally except the excluded castes:

(4) 'Trustee' shall mean a person, by whatever designation known, in whom the administration of a temple is vested; and

(5) 'Voters' shall mean.

(a) When used in connection with a temple having an annual income of Rs. 500 and above, the Hindu voters in the electoral roll of the Corporation of Madras in the city of Madras or in the electoral roll of a Municipality constituted under the Madras District Municipalities Act, 1920, or a Taluk Board constituted under the Madras Local Boards Act, 1920, within the area of which it is situated ; and

(b) When used in connection with a temple having an annual income of less than Rs. 500, the Hindu voters in

the electoral roll of the Municipal division in the City of Madras or the Municipal Ward in the Municipal area in the mofussil or the Panchayat area within which it is situated.

3. (1) After the commencement of this Act, a written requisition signed by not less than 50 voters may be made to the Trustee of a temple asking him that the question of throwing open a temple to any excluded caste may be referred for decision to the general body of voters.

(2) Upon such requisition, the trustees shall forthwith refer the question to the voters for decision in the manner prescribed.

(3) The decision of a majority of the voters who have recorded their opinions shall be binding on the trustee of the temple and on all worshippers therein.

(4) Where the decision is in favour of allowing the entry of any excluded caste into the temple, the trustee shall publish an order in the manner prescribed that the excluded caste shall have right or entry into such temple.

4. (1) Notwithstanding any law, custom or usage to the contrary, it shall be open to the trustee of any Hindu temple himself to publish in the prescribed manner a notice that unless an objection is lodged with him under Section 6 within a period of one month within the date of publication of the notice, he will make an order allowing the excluded caste, mentioned by him in the notice, to enter into such temple.

(2) With one month after the publication of such notice by a trustee, a written objection signed by not less than 50 voters may be lodged with the trustee, objecting to such entry. Upon the lodging of such objection, the question whether the excluded caste concerned shall or shall not be allowed entry into the temple shall be referred to the voters under sub-section (2) of Section 3 as if a requisition had been made under sub-section (1) of that section.

(3) The decision of a majority of the voters recording their opinions shall be binding on the trustee and the worshippers of the temple.

(4) Where an objection has been lodged under sub-section (2) and the decision of the majority of the voters recording their opinions is in favour of allowing the entry of the excluded caste into the temple, or where no objection is raised after the expiry of the period mentioned in the notice under Section 4, the trustee shall publish an order in the manner prescribed that the excluded caste shall have a right of entry into the temple.

5. On the publication in the prescribed manner of an order by the trustee under sub-section (4) of Section 3 or sub-section (4) of Section 4, it shall be lawful for any member of the excluded caste referred to in such order to enter into the temple for the purpose of worship therein, subject to such general regulations for the maintenance of order and cleanliness and the due observance of the religious ceremonies in the temple as may be made in that behalf by the trustee.

6. Where a reference has been made to the voters under sub-section (2) of Section 3 or sub-section (2) of Section 4, and the majority of voters who have voted have decided against the throwing open of the temple to any excluded caste, no written requisition under Section 4 be published for a period of one year from the date on which such reference was made.

7. In Section 40 of the Madras Hindu Religious Endowments Act, 1926, the words "subject to the provisions of the Temple Entry Disabilities Removal Act 1933" shall be inserted at the commencement.

8. The trustees of a temple may with the previons approval of the Board make regulations

(1) for the maintenance of order and cleanliness in the temple; and

(2) for the due observance of the customary religious ceremonial in the temple.

9. (1) The Local Government shall have power to make rules for the purpose of carrying into effect the provisions of of this Act.

(2) Without prejudice to the generality of the foregoing power, the Local Government shall have power to make rules prescribing.

(a) the form of the requisition by the voters for a referendum and the manner of its presentation to the trustees;

(b) the manner of publication of the notices and orders of the trustee;

(c) the method of obtaining the opinions of the voters ; and

(d) the decision of disputes regarding the ascertainment of such opinions.

Statement of Objects and Reasons.

The custom of segregation of certain classes of Hindu community as untouchable and the social disabilities they suffer from have been the subject of universal condemnation. There has been continuous agitation on the part of leaders of these classes as well as on the part of reformers among the Caste Hindus to break the custom and remove the disabilittes. Recent events have brought this agitation to a head, aud there is at present a great wave of feeling throughout India for the removal of these disabilities of the Depressed Classes as they have been commonly called. Public agitation is specially focussed on the exclusion of these classes from the entry into the ordinary Hindu temples along with Caste Hindus. Public Hindu temples being places of more or less free and equal association of all sections and denominations of Caste Hindus in the worship of their common Gods, it is felt that these

Depressed Classes should also be given the right of entry into these temples for purposes of worship. In spite of great advances in public opinion, established usage is in force as law to the prejudice of these classes, and no change or innovation is permitted. Not only have courts treated the entry of members of these classes into Hindu temples as a defilement thereof punishable under the Indian Penal Code, but doubts have been felt as to the authority of trustees in charge of temples peacefully to permit such entry even when they feel that public opinion among the worshippers favours such entry. In the opinion of many trustees, the law of the land, and Section 40 of the Madras Hindu Religious Endowments Act II of 1927 in particular, stands in the way of any change. It is therefore necessary to enact a law of a permissive character enabling the removal of the bar where local public opinion favours such reform. The procedure and usage of Hindu temple worship in South India being different from those prevailing in other provinces, it is necessary that a measure of this kind should be considered by the local legislature in the light of local public opinion. Further it involves the amendment of the Local Act *viz.*, the Madras Hindu Religious Endowments Act. Hence this Bill.

APPENDIX IV.

Rao Bahadur M. C. Rajah's Bill of 1933 to further amend the Code of Criminal Procedure of 1898.

Whereas it is expedient to safeguard the exercise by persons considered by law, custom, or usage to be untouchable of their rights as members of the public and to provide against any interference therewith; it is hereby enacted as follows.

1. This Act may be called the Code of Criminal Procedure (Amendment) Act of 1933.

2. To sub-section 1 of Section 144 of the Code of Criminal Procedure 1898, the following proviso shall be added namely :—

"Provided that no order shall be made under this section against any person or class of persons directing him to abstain from any act in the exercise of his lawful rights, solely on the ground that by reason of his belonging to a caste or community considered by law custom or usage to be untouchable any obstruction, annoyance or injury or danger to human life health or safety or a disturbance of the public tranquillity or a riot or an affray is likely or tends to arise."

Statement of Objects and Reasons.

This Bill is intended to remove the danger of the provisions of Section 144 of the Code of Criminal Procedure being used to prevent the exercise the lawful rights as members of the public of persons coming under the description of touchables. Though in law they have equal rights with other castes and communities, they are unable to exercise their rights because persons belonging to the so called higher castes are likely to create disturbances with a view to obstruct the peaceful exercise of such rights by them. In such circumstances, it is unfair that the so-called untouchables should be restrained by orders under Section 144 of the Code of Criminal Procedure. The proper course in such cases would be that orders under the section should be directed against those who wish to thwart the members of the untouchable classes in the lawful exercise of their civic rights. Authority in such cases should actively protect the so-called untouchable classes and enable them to exercise their rights inspite of such unwarranted interference with their just and lawful rights."

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APPENDIX V.

Mr. C. S. RANGA IYER'S BILL OF 1933.

A BILL TO REMOVE THE DISABILITIES OF THE SO-CALLED DEPRESSED CLASSES IN REGARD TO ENTRY INTO HINDU TEMPLES.

Whereas it is increasingly felt by the Hindu community that the disabilities imposed by custom and usage on certain classes of Hindus in respect of entry into their temples should be removed.

And whereas doubts have been entertained whether trustees and others in charge of the management of such temples have power to make any innovation contrary to the established custom or usage of the temples.

And whereas it is expedient that the law as administered by the courts should no longer prevent a trustee from allowing to any class of Hindus' who might have been excluded from a temple under his management, entry into such temples, if the Hindu commnnity in the locality is generally minded to allow such entry.

And whereas it is necessary to provide legal machinery for the ascertainment of the opinion of the Hindu community in regard to such entry.

And whereas the sanction of the Governor-General has been obtained to the passing of this Act.

It is hereby enacted as follows:—

1. (1) This Act may be called the Temple Entry Disabilities Removal Act, 1933.

(2) It shall come into force on

2. In this Act, unless there is anything repugnant in the subject or context.

(1) 'Board' shall mean the Board of Commissioners constituted under Section 10 of the Madras Hindu Religious Endowments Act 1926 (or any similar authority constituted in other provinces);

(2) 'Excluded Caste' shall mean any caste or class of the Hindu community excluded by reason of established usage or custom from entering a temple;

(3) 'Temple' shall mean a place, by whatever designation known used as of right as a place of public worship by the Hindu community generally except the excluded castes.

(4) 'Trustee' shall mean the person by whatever designation known, in whom the administration of a temple is vested; and

(5) 'Voters' shall mean.

(a) When used in connection with a temple having an annual income of Rs. 500 and above, the Hindu voters in the electoral roll of a Municipality or a District Board or a Taluk Board, or any other local authority constituted under the Local Boards Act, within the area of which it is situated, and

(b) When used in connection with a temple having an annual income of less than Rs. 500 the Hindu voters in the electoral roll of the Municipal division of the City or the Municipal Ward in the Municipal area in the mofussil or of the Panchayat area in which it is situated.

3. (1) After the commencement of this Act, a written requisition signed by not less than 50 voters may be made to the trustee of a temple asking him that the question of throwing open a temple to any excluded caste may be referred for decision to the general body of voters.

(2) Upon such requisition, the trustee shall forthwith refer the question to the voters for decision in the manner prescribed.

(3) The decision of a majority of the voters who have recorded their opinions shall be binding on the trustee of the temple and on all worshippers therein.

(4) Where the decision is in favour of allowing the entry of any excluded caste into the temple, the trustee shall publish an order in the manner prescribed, that the excluded caste shall have a right of entry into such temple.

4. (1) Notwithstanding any law, custom or usage to the contrary, it shall be open to the trustee of a Hindu temple to publish in the prescribed manner a notice that unless an objection is lodged with him under section 6 within a period of one month from the date of publication of the notice, he will make an order allowing an excluded caste, mentioned by him in the notice, to enter into such temple.

(2) Within one month after the publication of such notice by a trustee, objection signed by not less than 50 voters may be lodged with the trustee, objecting to such entry. Upon the lodging of such objection, the question whether the excluded caste concerned shall or shall not be allowed entry into the temple shall be referred to the voters under sub-section (2) of section 3 as if a requisition had been made under sub-section (1) of that section.

(3) The decision of a majority of the voters recording their opinions shall be binding on the trustee and the worshippers of the temple.

(4) Where an objection has been lodged under sub-section (2) and the decision of the majority of the voters recording their opinions is in favour of allowing the entry of the exclnded caste into the temple, or where no objection is raised, after the expiry of the period mentioned in the notice under section 4, the trustee shall publish an order in the manner prescribed, that the excluded caste shall have a right of entry into the temple.

(5) On the publication in the prescribed manner of an order by the trustees under sub-section (4) of section 3 or sub-section (4) of section 4, it shall be lawful for any member of the excluded caste referred to in such order to enter into the temple for the purpose of worship therein, subject to such general regulations for the maintenance of order and cleanliness and the due observance of the religious ceremonies in the temple as may be made in that behalf by the trustee.

(6) Where a reference has been made to the voters under sub-section (2) of section 3 or sub-section (2) of section 4, and the majority of voters who have voted have decided against the throwing open of a temple to any excluded caste, no written requisition under section 3 can be made or notice under section 4 be published for a period of one year from the date on which such reference was made.

7. The trustees of a temple may with the previous approval of the Board, where such a Board has been constituted under law, make regulation

(1) for the due observance of the customary religious ceremonial in the temple, and

(2) for the maintenance of order and cleanliness in the temple.

8. (1) The Local Government shall have power to make rules for the purpose of carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, the Local Government shall have power to make rules prescribing.

(a) the form of the requisition by the voters for a referendum and the manner of its presentation to the trustee,

(b) the manner of publication of the notices and orders of the trustee

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(c) the method of obtaining the opinions of the voters, and

(d) the decision of disputes regarding the ascertainment of such opinions.

Statement of object and reasons.

The custom of segregation of certain classes of the Hindu community as untouchable and the social disablities they suffer from have been the subject of universal condemnation. There has been continuous agitation on the part of leaders of these classes as well as on the part of reformers among Caste Hindus to do away with the custom and remove the disabilities. Recent events have brought this agitation to a head, and there is at present a great wave of feeling throughout India for the removal of these disabilities of the Depressed Classes as they have been commonly called. Public agitation is specially focussed on the exclusion of these classes from entry into the ordinary Hindu temples along with Caste Hindus. Public Hindu temples being places of more or less free and equal association of all sections and denominations of Caste Hindus in the worship of their common Gods, it is felt that these Depressed Classes should also be given the right of entry into these temples for purposes of worship. In spite of great advance in public opinion, established usage is in force as law much to the prejudice of these classes, and no change or innovation is permitted. Not only have the courts treated the entry of members of these classes into Hindu temples as a defilement thereof punishable under the Indian Penal Code, but doubts have been felt as to the authority of trustees in charge of temples peacefully to permit such entry even when they feel that public opinion among the worshippers favours such entry. In the opinion of many trustees, the law of the land, and section 40 of the Madras Religious Endowments Act II of 1927 in particular, stands in the way of any change. It is, therefore, necessary to enact a law of a permissive character enabling the removal of the bar where local public opinion favours such reform.

APPENDIX VI.

Mr. M. C. Rajah's Bill of 1935, to provide for the removal of social disabilities among certain classes of Hindus.

This Bill was introduced on the 31st May 1935. The following is the full text of the Bill with Statements of Objects and Reasons.

A BILL TO PROVIDE FOR THE REMOVAL OF SOCIAL DISABILITIES AMONG CERTAIN CLASSES OF HINDUS.

Whereas it is increasingly felt by the Hindu Community that the disabilities, which are imposed by social custom and usage on certain classes of Hindus commonly known as Harijans, Untouchables, Backward Communities and Depressed Classes, and which have been in certain matters and even legally recognised in the adjudication of rights and duties in civil and criminal proceedings, are repugnant to modern conditions and ideas of justice and social solidarity and should no longer be recognised by law or otherwise enforced, but should be severely discouraged.

It is hereby enacted as follows:—

1. The Act may be called the Removal of Civic Disabilities Act, 1935.

2. It shall apply to the whole of British India.

3. Notwithstanding any law, custom, usage or prescription to the contrary, no subject of His Majesty resident in British India shall by reason merely of his belonging to any particular community or class among the Hindus known as Harijans, Untouchables, Depressed Classes or Backward Clssses or the like, be prevented or disabled from being appointed to any public office or enjoying or having access to any stream, river, public well, tank, pathway, convenience or transport or any other service which the general public belonging to all

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other classes of Hindus have a right to enjoy or have access to or which is dedicated or maintained or licensed for the use of the general public, or which is maintained or paid for out of the funds of the State or local statutory authority.

And no civil, criminal or revenue Court or public or local authorities shall in adjudicating any matter or executing any order or carrying on the affairs entrusted to such authority recognise any usage or prescription under which it is sought to impose any civil disability or penalty on any person by reason of his belonging to any of the communities aforesaid, or by reason of any acts or omissions on the part of such person which would not furnish grounds for such penalty or disability in case he did not belong to such community.

Statement of objects and reasons

The custom of segregation of certain Hindu classes as outcaste and untouchable and the social and other disabilities they suffer under in consequence of such custom, have been the subject matter of universal condemnation. There has been continuous agitation on the part of the leaders of the Depressed Classes as they have been commonly called as well as on the part of the reformers among the main body of Hindus to put an end to this custom of untouchability and to the disabilities arising therefrom. Recent events have brought this agitation to a head and there is at present a great wave of feeling throughout India for the removal of the disabilities of these Depressed Classes which in the interest of humanity and general welfare advantage should be taken of by the State. It is, therefore, desirable that a general law should be passed prohibiting the recognition of any rights, or disabilities arising out of the usage regarding untouchability, either in civil or criminal Courts.

APPENDIX VII.

Rules framed under the Temple-Entry Proclamation of the Maharaja of Travancore :—

Whereas We have by a Proclamation issued under date the 27th Tulam 1212, corresponding to the 12th November 1936, declared, ordained and commanded that, subject to the rules and conditions that We may impose, no restriction shall be placed on any Hindu entering and worshipping at the temples controlled by us and our Government, We are hereby pleased to enact the following:

1. The expression "temple" occurring in these rules shall include not only the temple and sub-shrines but also "mandapams" and other buildings as well as tanks and wells appurtenant to the temple.

2. The expression 'Chief Officer of the Devaswom" occurring in these rules shall mean the Officer in charge of the Devaswom. It shall also include every officer superior to him and having jurisdiction when such superior officer exercise the powers of the Chief Officer of the Devaswom.

3. In order that the customs and usages of obtaining in the several temples under the control of His Highness the Maharaja and the Government in regard to the Foojas, Nivedyams, Vazhivadus, the Nityanidhanam, Masavisesham, Attavisesham, Utsabam and other ordinary and special ceremonies and rituals shall continue to be observed as heretofore, it shall be competent to the Chief Officer of the Devaswom to give, consisteutly with the objects of the aforesaid proclamation, such directions as may be necessary from time to time for regulating the time of entry and worship of limiting the number of those who may enter for worship at a time or maintaining such special customs and usages as are applicable to certain individuals and communities for specific purposes.

4. The permission to enter a temple shall not be exercised so as to empower entrance into the Srikoil, Tidapally (kitchen) and other portions of the temple where specific restrictions even now exists in regard to all persons except those who are allowed to use those portions by custom.

5. All worshippers are bound to conform to the directions given by the Chief Officer of the Devaswom in regard to the carrying out of the objects of the aforesaid Proclamation. and the Rules and in regard to places which have to be reserved for the time being for the proper conduct of the rituals in the temples or observances such as the feeding of persons as heretofore conducted.

6. The classes of persons mentioned hereunder shall not enter within the compound walls of a temple, or its premises in case there is no compound wall:—

(a) Persons who are not Hindus;

(b) Persons under pollution arising out of birth and death in their families;

(c) Women at such times during which they are not by custom and usage allowed to enter temples;

(d) drunken or disorderly persons;

(e) persons suffering from any loathsome or contagious disease;

(f) persons of unsound mind except when taken for worship under proper control and with the sanction of the Chief Officer of the Devaswom concerned; and

(g) professional beggars.

7. No persons shall enter into any temple premises unless he wears clean clothes of such materials and in such manner as may be customary. The decision of the Chief Officer of the Devaswom concerned shall prevail until set aside by a higher authority. None shall be allowed to enter temple premises with any footwear, except those who are allowed to do so by custom and usage obtaining in the temple.

8. No person shall, within the temple and premises, spit, chew betel, tobacco or any similar article or smoke or carry with him any article for smoking, or take with him fish,

eggs, meat, flesh, toddy, arrack or other intoxicants or any other article or animal inappropriate according to custom and usage to be introduced into the temple.

9. No person shall enter the Belikkalpura, Valiambalam, Nalambalam, or the Elamatil, which in some temples take the place of Nalambalam, with any coat, shirt, vest or such other garments, except women who may wear their usual dress. No head dress shall be worn except by those who are allowed to do so by custom and usage obtaining in the temple: No one shall take therein any cloth, umbrella, kerosene light, or other article inappropriate to be introduced into such places by custom or usage. In temples where the above restrictions obtain even in regard to entering within the compound walls, the same shall be observed.

10. (1) No one shall enter the portions of a temple specified in the last preceding rule without having, in accordance with custom and usage, bathed, and without the customary caste mark and without wearing clean clothes of such material and in such manner as may be customary in the temple concerned.

(2) No one except a Hindu shall enter a tank appurtenant to a temple; and every person permitted to enter a tank shall obey such directions as may be given by the Chief Officer of the Devaswom concerned. The direction of the Chief Officer of the Devaswom shall prevail until set aside by a higher authority.

(3) Tanks used for the exclusive use of particular functionaries of the temple shall continue to be so reserved.

11. Restrictions as to entry and worship, which according to usage and custom apply to all communities alike, shall continue to apply.

12. No one shall interrupt the worship in a temple by loud conversation or other demonstration which would derogate from the solemnity and the proper atmosphere of the temple.

13. It shall not be lawful to any person to use the temple buildings and premises for purposes not connected with or arising from the worship, usages and observances of such temples.

14. No one shall do any act which would tend to derogate from the purity and the cleanliness of the temple and its premises.

15. If any doubt arises in regard to the applicability of, or conformity to, any of these provisions, the decision of the Chief Officer of the Devaswom concerned shall prevail until set aside by a higher authority.

16. It shall be lawful for the Chief Officer of the Devaswom concerned to direct that any person who contravenes or is suspected or believed by the Chief Officer of the Devaswom to have contravened any of the provisions of these rules, or disobeys any lawful direction given by him, shall remove himself from the temple, and in case such person does not so remove himself, to cause him to be removed from the temple. In case he resists such removal, or in case when asked to give his name and address, he refuses to do so or gives information which is not believed to be true he shall be liable to be arrested and removed by a police officer, not below the rank of a head constable and to be dealt with as if he had been arrested under section 38 of the Code of Criminal Procedure.

17 If any person contravenes any of the provisions of these rules, or disobeys any direction lawfully given in pursuance thereof, and thereby renders necessary any purificatory ceremonies, according to the customs and usages of the temple, such person shall be liable to pay the cost of the necessary purifactory ceremonies at the approved rates and the same shall be recoverable from him as arrears of public or land revenue or otherwise. A person thus contravening or disobeying shall besides being subject to any penalty to which he may be liable under any other law, be also punishable on

conviction by a magistrate with imprisonment of either description for a term which may extend to three months or with fine or with both.

18. No prosecution under these rules shall lie except on a complaint by a gazetted officer having jurisdiction in respect of the temple.

19. No action shall lie against any Devaswom Officer or other public servant who '*bona fide*' does any act in pursuance of these rules, and no action in a Criminal Court shall lie without sanction of Government.

20. In case of any doubt or dispute regarding the interpretation of the carrying out of any provisions of these rules, the decision of the Dewan thereon shall be final.

21. In cases of emergencies and unforeseen difficulties that may arise in carrying out of the provisions and objects of the aforesaid Proclamation or of these rules, the Dewan shall be competent to pass such orders as he may deem fit.

APPENDIX VIII

MADRAS ACT No. XX OF 1938.

PASSED BY THE MADRAS LEGISLATURE.

[*Received the assent of the Governor on the* 18*th January* 1939, *first published in the "Fort St. George Gazette" on the 7th February*, 1939].

An Act to remove the disabilities of certain classes of Hindus in regard to entry into temples in the district of Malabar.

[7th February 1939].

Whereas the disabilities imposed by custom and usage on certain classes of Hindus in respect of their entry into, and offering worship in, Hindu temples should be removed,

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And whereas, however, doubts have been entertained whether the trustees of such temples have the power in law to make any such innovation in practice,

And whereas it is just and expedient that these doubts should be removed and the trustees should be empowered by law to extend to all classes of Hindus the right of entry into, and worship in, temples if the Hindus in the locality who are now entitled to such entry are generally in favour of such extension,

And whereas, further, such extension of rights and privileges in Hindu temples to classes hitherto excluded has been recently ordered and peacefully brought into effect in one part of Kerala, and by reason of common traditions and identity of language, customs, forms of worship and the like, the removal of the disabilities aforesaid has been not only more insistently demanded, but also made more easy of accomplishment in the first instance, in another part of Kerala,

It is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called the Malabar Temple Entry Act, 1938.

(2) It extends to the whole of the District of Malabar.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(1) 'Board' means the Board of Commissioners constituted under section 10 of the Madras Hindu Religious Endowments Act 1926, or any other authority in which the powers and functions of the said Board in respect of a temple may for the time being be vested :

(2) 'excluded class' means any caste or class of the Hindu community which, by reason of any established usage or custom, is excluded from entering the temple concerned, or which, though admitted into the precincts of the temple, is not allowed entry into any part of the temple where the bulk of the worshippers are allowed :

(3) 'prescribed' means prescribed by rules made under section 9;

(4) 'temple' means a place, by whatever designation known, which is used as a place of public worship by the Hindu community generally except excluded classes and which was at any time assessed to contribution under section 69 of the Madras Hindu Religious Endowments Act, 1926, on an annual income of not less than Rs. 5,000; and in any context with reference to entry shall mean every part of the temple which is open to the bulk of the worshippers:

Provided that any temple which has been before the 1st of April 1938 declared by final decree or order of a competent court to be private property or accepted by the Board to be private property shall not be a temple for the purposes of this Act:

Provided further that any temple in respect of which a question as to whether it is private property has been already raised in a suit in a court of law or in an application before the Board registered before the 1st of April 1938, the temple shall not be deemed to be a temple for the purposes of this Act until the final decision in such a proceeding and thereafter, it shall not be, or shall be, a temple for the said purposes according as the final decision declares or accepts the temple to be private property or not.

(5) 'trustee' means a person by whatever designation known, in whom the administration of a temple is vested, whether in a hereditary capacity or not;

(6) 'voters' means the Hindu voters, other than those belonging to excluded classes, on the electoral roll of the Madras Legislative Assembly for the time being in force relating to the general constituency of the revenue taluk in which the temple is situated including the municipal areas therein, who are included in a list prepared under the rules made under section 9; and

(7) 'worship' means such religious service as the bulk of the worshippers participate in, in accordance with the provisions of such regulations as may be made by the trustees for the maintenance of order and cleanliness and the due observance of the religious rites and ceremonies performed in the temple.

Requisition to trustees to throw open temples to excluded classes.

3. (1) On receipt by the trustees of a temple of a requisition in writing signed by not less than fifty voters requesting them to throw open the temple to persons belonging to excluded classes, the trustees shall forward the requisition to the Provincial Government and the Provincial Government shall thereupon direct the trustees to refer the matter to the voters and ascertain their opinion by votes taken by the prescribed method:

Provided that if the Provincial Government are of opinion that the requisition is not made for the furtherance of the objects of this Act, they may direct that no action be taken thereon.

(2) Where on such reference the result is found by a majority of the votes to be in favour of throwing the temple open to persons belonging to excluded classes, the trustees shall publish in the prescribed manner an order to the effect that the temple shall thereafter be open to persons belonging to excluded classes.

Power of trustees to issue notice of proposal to throw open temples to excluded classes.

4. (1) Notwithstanding any law, custom or usage to the contrary, it shall be open to the trustees of a temple to publish in the prescribed manner a notice to the effect that they propose to make an order throwing the temple open to persons belonging to excluded classes. Such notice shall also state that objections to the proposal may be preferred to the trustees at any time within one month from the date of the publication of the notice.

(2) If within one month from the date of the publication of the notice referred to in sub-section (1), written objections to the proposal are preferred by not less than fifty voters, the same shall be forwarded to the Provincial Government, and thereafter, on a direction from them, the question whether the temple shall or shall not be thrown open to persons belonging to excluded classes shall be referred for the opinion of the voters as if a requisition had been received under sub-section (1) of section 3.

(3) If in any case where action under sub-section (1) is taken by the trustees, no objection as specified in sub-section (2) is preferred, or if on a reference made under sub-section (2), the result is found to be in favour of throwing the temple open to persons belonging to excluded classes, the trustees shall publish in the prescribed manner an order to the effect that the temple shall thereafter be open to persons belongiug to excluded classes.

5. The Provincial Government may, at any time, before the results of any reference to the voters are announced, order that all further action in respect of such reference shall be suspended and upon such order all previous proceedings relating thereto shall be deemed to have been cancelled.

Power of trustees to throw open temples to excluded classes without reference to voters in certain cases.

6. Where on a reference made to the voters under sub-section (1) of section 3 or sub-section (2) of section 4 the result is found to be in favour of throwing a temple open to persons belonging to excluded classes, the trustees of any other temple situated in the same revenue taluk, within two years from the date of such referenee, may of their own motion and shall on receipt of a requisition in writing signed by not less than fifty voters, publish in the prescribed manner an order to the effect that the temple shall be open to persons belonging to excluded classes.

Effect of order under section 3 (2), 4 (3) or 6.

7. Where an order has been published under sub-section (2) of section 3, or sub-section (3) of section 4, or section 6, it shall be lawful, notwithstanding any custom or usage to the contrary, for any person belonging to excluded classes to enter the temple concerned and participate in worship therein.

Fresh proceedings not to be taken in certain cases.

8. Where on a reference made to the voters under sub-section (1) of section 3 or sub-section (2) of section 4, the result is found to be against throwing the temple open to persons belonging to excluded classes, no further proceedings shall be taken either under sub-section (1) of section 3 or under sub-section (1) of section 4 for a period of two years from the date of such reference in respect of such temple or any other temple in the same revenue taluk.

Rules.

9. (1) The Provincial Go[illegible]nment may make rules for the purposes of carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power the Provincial Government may make rules—

(*a*) with reference to all matters allowed to be prescribed by this Act;

(*b*) as to the form and presentation of the requisitions and objections referred to in sub-section (1) of section 3, section 4 and section 6;

(*c*) as to the publication of orders and notices by trustees;

(*d*) as to the method by which the opinion of the voters shall be ascertained;

(*e*) as to the preparation and publication of lists of voters, and the decision of all disputes which may arise in connexion therewith; and

(*f*) as to the decision of all disputes which may arise in respect of requisitions and objections from voters under sections 3, 4 and 6 or in respect of references to voters under sections 3 and 4 and the ascertainment and publication of the results of such references.

(3) All rules made under this section shall be published in the official gazette and on such publication shall have effect as if enacted in this Act.

Power to remove difficulties.

10. If any difficulty arises in giving effect to the provisions of this Act the Provincial Government, as occasion requires, may order the doing of anything necessary for the purpose of removing the difficulty.

Power to decide disputes.

11. (1) If any question arises as to whether a place is or is not a temple as defined in this Act the question shall be referred for the decision of the Provincial Government and their decision shall be final.

(2) The Provincial Government shall have power to exempt from the provisions of this Act such institutions as, in their opinion, are in the nature of family temples and may be exempted without prejudice to the objects of this Act.

Amendment of section 40, Madras Act II of 1927.

12. In section 40 of the Madras Hindu Religious Endowments Act 1926, the words and figures "Subject to the provisions of the Malabar Temple Entry Act, 1938," shall be inserted at the commencement.

APPENDIX IX

The Malabar Temple Entry Rules, 1939.

(G.O. No. 419, P.H., dated 4-2-1939).

In exercise of the powers conferred by section 9 of the Malabar Temple Entry Act, 1938 (Madras Act XX of 1938), the Government of Madras are hereby pleased to make the following rules :—

Rules.

1. These rules may be called the Malabar Temple Entry Rules, 1939.

2. In these rules, unless there is anything repugnant in the subject or context :—

(i) "the Act" means the Malabar Temple Entry Act, 1938;

(ii) "Form" means a form appended to these rules;

(iii) "Government" means the Government of Madras; and

(iv) "section" means a section of Act.

3. (1) The requisition referred to in sub-section (1) of section 3 and section 6 and the objection referred to in sub-section (2) of section 4 shall be verified in the manner provide in the Code of Civil Procedure, 1908, for the verification of a

plaint. Every such requisition or objection shall be supported by the affidavit of one or more of its signatories stating that all the signatories are voters in the list of voters concerned and that the signatures in the requisition or objection are genuine.

(2) Every requisition referred to in sub-section (1) of section 3 and every objection referred to in sub-section (2) of section 4 shall be accompanied by a receipt from a Government treasury or sub-treasury evidencing payment by or on behalf of the signatories of the sum of two hundred rupees to the credit of the Government. The sum so paid will not be returnable. Any such requisition or objection which is not accompanied by a receipt as aforesaid shall be rejected.

4. A requisition or objection referred to in rule 3 shall be sent by registered post to the trustee of the temple or where there are more trustees than one, to the managing trustee if any, and if there is no managing trustee, to any one of the trustees, and shall be deemed to have been duly received by the trustee or managing trustee if a postal acknowledgment is received. The trustee or, as the case may be, the managing trustee, shall give intimation to the person who sent the requisition or objection by registered post, of the date on which the requisition or objection was forwarded to the Government. If the trustee or managing trustee refuses to receive the requisition or objection sent to him by registered post or if he does not forward the requisition or objection to the Government within ten days after his receipt of the same, the requisition or objection or, as the case may be, a copy of the same, may be forwarded direct to the Government who may thereupon take action as if a requisition or objection had been forwarded to them by the trustees of the temple under sub-section (1) of section 3, or as the case may be, under sub-section (2) of section 4.

5 The order referred to in sub-section (2) of section 3, sub-section (3) of section 4 and section 6 and the notice referred to in sub-section (1) of section 4 shall be published in the language of the revenue taluk in the District Gazette and in one or

more newspapers circulating in the revenue taluk. The order shall also be published by affixing a copy thereof to the notice board of the temple and by beat of tom-tom in the village in which the temple is situated.

6. For each revenue taluk a list of voters shall be prepared and revised once in three years or at such time as the Government may fix. Such list shall be maintained in Form 1, shall be divided into parts for each Revenue Inspector's firka comprised in the revenue taluk and each part shall be divided into sections for each village and for each municipality. The voters in each Revenue Inspector's firka shall be numbered in one series. The villages in each firka and the voters in each village shall be arranged alphabetically. In municipal areas the voters shall be arranged alphabetically for each ward. The list shall be kept in English and in the language of the revenue taluk.

7. For the preparation of a list of voters and for the purpose of ascertaining the opinion of the voters on a reference made to them under sub-section (1) of section 3 or sub-section (2) of section 4, the Government shall appoint an officer, hereinafter called the Returning Officer.

8. It shall be the duty of the Returning Officer to cause enquiry to be made and to prepare or cause to be prepared a preliminary list of all persons entitled to be registered as voters. The preliminary list shall be published by posting it in the office of the Returning Officer along with a notice specifying the mode in which and the time within which claims and objections are to be preferred and the date on which and the place at which such claims and objections will be considered. The list and the notice shall also be published by posting them in the offices of the Revenue Divisional Officers, Tahsildar, Deputy Tahsildars and Sub-Magistrates and of the municipalities, if any, in the revenue taluk.

9. (1) Any person who claims to be entitled to be included in the list and who is not entered or is entered in an

incorrect place or manner are with incorrect particulars and any person whose name is in the list and who objects to the inclusion of his own name or of the name of any other person whose name is in the list may prefer a claim or an objection to the Returning Officer. Such claim or objection shall be sent to the Returning Officer so as to reach him within the time specified in the notice published under rule 8. The claim or objection shall contain full particulars of the grounds of the claim or objection as the case may be.

(2) Claims and objections may be preferred in person or by agent or sent by post.

(3) Claims and objections received after the time specified in the notice published under rule 8 shall be rejected.

provided that where there is evidence to show that a claim or objection was posted in sufficient time to have reached the Returning Officer in the usual course within the time specified in the notice published under rule 8 such claim or objection shall be considered.

(4) The Returning Officer may of his own motion remove from the list the names of persons whom he has reason to believe to be dead and correct clerical or accidental mistakes. He may also of his own motion add names of Hindu voters not belonging to excluded classes and remove names of persons who are Hindu voters belonging to any of the excluded classes.

(5) The Returning Officer shall not later than two days before the date fixed for considering claims and objections—

(a) post in his own office, in the offices of the Tahsildar, Deputy Tahsildar, Sub-Magistrates and of the municipalities, if any, and in such other places in the revenue taluk as he may decide, lists of claims and objections received in time and the corrections, additions and removals made by him of his own motion; and

(b) send a copy of every notice of objection to the person to whose registration objection has been taken and

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whenever possible give intimation to the person concerned of the correction, addition and removal made by him of his own motion.

In the lists referred to in clause *(a)* and in the copy and intimation sent under clause *(b)* the Returning Officer shall give notice that the claims, objections, corrections, additions and removals will be taken into consideration by him on the date and at the place specified in the notice published under rule 8.

(6) The Returning Officer shall, on the date and at the place specified in the notice published under rule 8, consider the claims and objections and after making such enquiry as he may think fit pass orders in writing thereon with reasons if a claim is rejected or an objection disallowed. He shall also pass final orders on the lists of corrections, additions and removals made by him of his own motion.

(7) On the considerations of any claim or objection or other matter by the Returning Officer any person appearing to be interested therein may appear and be heard either in person or by duly authorized agent.

10. No person's name shall be entered in the list of voters of more than one revenue taluk, or in more than one place in the list of voters of the same revenue taluk.

11. The Returning Officer shall correct the list in accordance with the orders passed by him under rule 9 and the final list shall be published by posting it in the offices mentioned in rule 8. If it is more convenient the preliminary list together with the list of additions and corrections may be published as the final list. The final list shall also be published in the District Gazette.

12. Copies of the final list (or of the preliminary list with the list of additions and corrections) shall be made available for inspection and sale in the offices of the Thasildar and Deputy Thasildars in the revenue taluk and for supply to the polling officers.

13. On receipt of a direction from the Government under sub-section (1) of section 3 or under sub-section (2) of section 4 the trustees shall intimate the same to the Returning Officer for making arrangements for the ascertainment of the opinion of voters.

14. (1) The Returning Officer shall thereupon prepare and publish a notice of the intended reference in the language of the revenue taluk. Such notice shall state—

(*a*) the day on which, the place or places at which and the hours during which the votes of the voters will be taken, such day not being less than fifteen days from the date of the publication of the notice; and

(*b*) the day on which and the place and hour at which the Returning Officer will commence to count the votes.

(2) Copies of the notice shall be posted on the notice boards of the municipal office, if any, and of the offices of the Revenue Divisional Officer, Tahsildar, Deputy Tahsildars and Sub-Magistrates in the revenue taluki n which the temple is situated.

15. (1) Votes shall be taken by ballot. the votes of the voters who are in favour of throwing open the temple to persons belonging to excluded classes being put in one ballot box and those of voters who are against throwing open the temple to persons belonging to excluded classes being put in another.

(2) The ballot boxes shall display distinctive colours, deep yellow being assigned to the ballot box or boxes for the receipt of votes in favour of throwing open the temple to persons belonging to excluded classes and blue being assigned to the ballot box or boxes for the receipt of votes against throwing open the temple. Outside the polling station shall be provided a board on which is displayed in bold and clear print in the language of the revenue taluk the significance of the colour assigned to each box.

16. The Returning Officer shall appoint one or more polling officers for each polling station.

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17. No voter shall be admitted to vote except at the polling station fixed for the revenue firka in which his name is registered in the list of voters.

18. The polling officer shall close the polling station at the hour appointed for closing under clause (*a*) of sub-rule (1) of rule 14 and no ballot paper shall be issued after that hour.

19. Each polling station shall contain a separate compartment in which voters can record their votes screened from observation except in so far as it may be necessary to ensure that the ballot papers are duly placed in boxes. As far as possible, separate compartments and separate entrances and exits shall be provided for women voters.

20. Every ballot box shall be so constructed that the ballot papers can be introduced therein but cannot be withdrawn therefrom without the box being unlocked. Just before the commencement of the poll the polling officer shall show the ballot box empty to such persons as may be present at such station so that they may see that it is empty and shall then lock it up and place his seal upon it in such manner as to prevent its being opened without breaking such seal. He shall thereupon place the box so locked and sealed inside the polling compartment for the receipt of ballot papers but screened from observation except in so far as it may be necessary to ensure that the ballot papers are duly placed in it.

21. Every ballot paper shall be in Form II and shall be printed in the language of the revenue taluk and shall be serially numbered, the number being printed on the face of the counterfoil and of the foil. On each ballot paper the polling officer shall affix a stamp across the perforation between the foil and counterfoil.

22. A voter shall be given only one ballot paper. Immediately before a ballot paper is delivered to a voter, the number, name and description of the voter as stated in the list of voters shall be called out. The polling officer shall stamp the ballot

paper with the prescribed mark, detach it from the counterfoil and deliver it to the voter and shall place his initials on a copy of the list of voters against the number of the voter to denote that he has received a ballot paper but with no indication of the particular ballot paper which he has received.

23. The voter, on reciving the ballot paper, shall forthwith proceed into the polling compartment and put the ballot paper into whichever of the two ballot boxes he may choose. He shall quit the polling station as soon as he has voted.

24 (1) If a voter is incapacitated from blindness or other physical cause from voting in the manner provided in rule 23 the polling officer shall ascertain from him as to how he wishes to vote, whether for or against throwing open the temple to persons belonging to excluded classes and shall, in the presence of any person who may be present, place the ballot paper in the box bearing the colour assigned for the purpose for which the voter wishes to vote.

(2) In the case of every voter whose ballot paper is dealt with in the manner laid down in sub-rule (1), a note shall be made on the counterfoil by the polling officer, of the reason why it was so dealt with.

25. (1) When a person presents himself to vote and at any time before a ballot paper is supplied to him, the polling officer may, of his own accord and shall, if so required by a trustee or his agent, put to such person any or all of the following questions:-

(i) "Are you the person enrolled as voter (reading the whole entry from the list of voters)?"

(ii) "Have you already voted at the present reference?"

and the person shall not be supplied with a ballot paper unless he gives an unqualified answer to the question or questions put to him and unless he answers the first question in the affirmative and the second question in the negative.

(2) Except as mentioned herein, every person whose name is found in the list of voters concerned shall be entitled to be supplied with a ballot paper.

26. If a person representing himself to be a particular voter named in the list of voters applies for a ballot paper after another person has voted as such voter, the applicant shall, after duly answering such questions as the polling officer may ask, be entitled to receive a ballot paper in the same manner as any other voter. The polling officer shall write the word 'Tendered' in bold characters on the face of the ballot paper before it is handed over to such person. On receipt of such ballot paper (hereinafter referred to as tendered ballot paper) the voter shall proceed into the polling compartment and there place the ballot paper in an envelope bearing the colour assigned to the box in which the voter would otherwise have placed his ballot paper. He shall then stick the envelope and enclose it in a cover and hand it over to the polling officer. The polling officer shall make an endorsement containing the name of the voter and his number in the list of voters and shall set aside the cover in a separate packet the ballot papers in which shall not be counted by the Returning Officer. The name of the voter and his number in the list of voters shall be entered in a list which shall bear the heading 'Tendered votes list'. The person tendering such a ballot paper shall sign his name and address on that list or affix his thumb impression thereto.

27. A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot conveniently be used as a ballot paper may, on delivering it to the polling officer and satisfying him of the inadvertence, obtain another ballot paper in place of the spoilt paper and the latter shall, together with its counterfoil, be marked as cancelled.

28. Immediately after the close of the poll the polling officer shall make up into separate packets and seal with his seal.

(1) Each ballot box in use at his station unopened but with the key (which shall also be sealed in the same manner as the ballot box) attached;

(2) The tendered ballot papers;

(3) The unused and spoilt ballot papers, both ordinary and tendered;

(4) The marked copies of the list of voters;

(5) The counterfoil of the ballot papers; and

(6) the tendered votes list; and

shall forward such packets to the Returning Officer.

29. The packets shall be accompanied by a statement in a separate cover made by the polling officer showing the number of ballot papers entrusted to him and accounting for them under the heads of ballot papers in the ballot boxes, unused, spoilt and tendered ballot papers.

30. (1) The counting of votes shall commence on the day and at the hour appointed for the purpose. Votes shall be counted by, or under the supervision of the Returning Officer. The trustees or their agents, one person nominated by the Government to represent those who are in favour of throwing the temple open to excluded classes and one person nominated by the Government to represent those who are against throwing the temple open to such classes shall have a right to be present at the time of counting. No other person shall be allowed to be present except such persons as the Returning Officer may appoint to assist him in counting votes.

(2) The Returning Officer shall proceed as follows:—

(a) The ballot box or boxes relating to all polling stations bearing the same colour shall be opened one after another. The Returning Officer shall take out the ballot papers therefrom, count them and record the number thereof in a statement. He shall then proceed similarly with the boxes of the other colour.

(*b*) The Returning Officer shall endorse on every ballot paper which is rejected the word 'rejected.' If a trustee or his agent or any of the persons nominated by the Government under sub-rule (1) questions the correctness of the rejection, he shall record on the ballot paper the grounds for the rejection. The trustees or their agents or the persons nominated by the Government under sub-rule (1) shall not be allowed to see the serial number of any ballot paper.

(*c*) The Returning Officer shall, as far as practicable, proceed continuously with the counting of the votes and shall during any necessary intervals during which the counting has to be suspended, place the ballot papers, packets and other documents under his own seal and shall cause adequate precautions to be taken for their custody.

31. (1) A ballot paper shall be rejected if—

(*a*) it bears any mark by which the voter can be identified ; and

(*b*) if it does not bear the official stamp prescribed in rule 21.

(2) Except on the abovementioned grounds, a ballot paper shall not be rejected.

32. (1) When the counting of the votes has been completed, the Returning Officer shall forthwith prepare a return setting forth the number of votes in favour of throwing open the temple to persons belonging to excluded classes and the number of votes against throwing open the temple and declare the result of the poll.

(2) The Returning Officer shall without delay intimate the result of the poll to the trustees and to the Government. A copy of the return under sub-rule (1) certified by the Returning Officer shall be forwarded to the Government.

(3) Where an equality of votes is found to exist the Returning Officer shall report the matter to the Government.

It shall be open to the Government on a consideration of the number of votes polled to direct a fresh reference being held forthwith or after such interval as they may deem fit.

33. Upon the completion of the counting the Returning Officer shall seal up in separate packets—

(i) The counted ballot papers;

(ii) the ballot papers rejected at the count ; and

(iii) the marked copy of the list of voters.

He shall retain these packets along with the other sealed packets in his custody to be forwarded if necessary to the authority hearing any objection petition preferred under these rules.

34. If any doubt or dispute arises as to whether a requisition under section 3 or section 6 or an objection under section 4 is valid such doubt or dispute shall be decided by the Government whose decision shall be final.

35. (1) No declaration of the result of a poll made by a Returning Officer shall be called in question except on an objection petition preferred to such officer as may be appointed by the Government for the purpose (hereinafter called the Election Officer), by a trustee or by not less than twenty voters. The objection petition shall be preferred within fourteen days of the date of the declaration of the result of the poll and shall contain a statement in concise form of the material facts on which the objection is based. It shall be signed by the petitioner or petitioners and verified in the manner prescribed for the verification of pleadings in the Code of Civil Procedure, 1908.

(2) Such objection petition shall be presented in person by one or more of the petitioners or sent by registered post.

(3) Along with the objection petition, the petitioner or petitioners shall deposit a sum of Rs. 100 as security for the costs of the same.

(4) If such an objection petition is preferred, the trustees shall not, before the objection petition is disposed of, publish the order referred to in sub-section (2) of section 3 or sub-section (3) of section 4 as the case may be.

36. The Election Officer shall give notice of the place and time of the hearing of the objection petition to the petitioner or petitioners and the trustees. Copies of the notice shall also be posted in the office of the Returning Officer and in the premises of the temple concerned for the information of the public.

37. The objection petition shall be enquired into in the revenue taluk in which the poll was held, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908, to the trial of suits.

38. (1) No objection petition shall be withdrawn without the leave of the Election Officer.

(2) If there are more petitioners than one, no application to withdraw a petition shall be made except with the consent of all the petitioners.

(3) When an application for withdrawal is made, notice thereof fixing a date for the hearing of the application shall be given to the parties to the petition and shall be published in the manner specified in rule 36.

(4) The Election Officer may on an application made by not less than ten voters, add the applicants as additional parties to the objection petition either as petitioners or as respondents, as the case may be, if he is satisfied that the conduct of the proceeding by the trustees is negligent or collusive.

39. If the Election Officer is satisfied that the result of the poll has been materially affected by—

(i) the improper reception or refusal of a vote or by any non-compliance with the provisions of the Act or the rules made thereunder, or

(ii) the false personation of voters or the procuring of votes by coercion or undue influence, he may either order a fresh poll to be held or decide on the evidence before him whether the majority of the voters who voted is in favour of throwing open the temple to persons belonging to excluded classes or against.

40. (1) The order or decision of the Election Officer under rule 39 shall be final and shall not be liable to be questioned or set aside in a court of law.

(2) If an objection petition is dismissed, the Election Officer may order that the amount deposited or any portion thereof may be paid to the respondent, if any, to the objection petition or credited to the Government.

(3) If the Election Officer decides that the result of the poll is in favour of throwing open the temple to persons belonging to excluded classes, the trustees shall publish an order under sub-section (2) of section 3 or sub-section (3) of section 4 in the manner provided in rule 5.

41. For the purposes of these rules an executive officer of a notified temple as defined in the Madras Hindu Religious Endowments Act, 1926, shall be deemed to be a trustee.

42. If any question arises as to the interpretation of these rules otherwise than in connexion with an enquiry into an objection petition preferred under these rules, the question shall be referred for the decision of the Government and their decision shall be final.

FORM I.

(See rule 6.)

List of voters under the Malabar Temple Entry Act, 1938.

Part.
Section.

1. Serial number.
2. Name.
3. Father's karnavan's or husband's name.

4. Address.
5. Caste and sub-caste.
6. Number in Legislative Assembly Electoral Roll.

FORM II.

(See rule 21.)

Ballot paper.

Counterfoil.	Foil.
Serial number.	
Name of temple.	
Village.	Serial number
Taluk.	
Poll.	

C. H. MASTERMAN,
Secretary to Government.

APPENDIX X.

Madras Ordinance No. I of 1939.

An Ordinance to indemnify officers of Government and certain other persons in respect of acts done or omitted to be done, in respect of entry into and offer of worship in, Hindu temples by certain classes of Hindus who by custom or usage are excluded from such entry and worship.

Whereas the Madras Legislature is not in session; And whereas a situation has arisen in which it has become necessary to protect and indemnify against legal proceedings certain persons who in good faith have taken steps for the peaceful realization of the aims and objects underlying the Temple Entry legislation already enacted in the Province of Madras; And whereas the Governor of Madras is satisfied that circumstances exist which render it necessary for him to take immediate action to protect and indemnify the said persons and to

prevent vexatious suits and other proceedings until such time as the Legislature can consider the Bill published for the purpose or any other suitable measure;

And whereas the instructions of the Governor-General under sub-section (1) of section 88 of the Government of India Act, 1935, have been obtained;

The Governor is pleased to make and promulgate the following Ordinance, namely:—

Short title, extent and commencement.

1. (1) This Ordinance may be called the Madras Temple Entry Indemnity Ordinance, 1939.

(2) It extends to the whole of the Province of Madras.

(3) It shall come into force at once.

Indemnification of officers & other persons for certain acts, etc.

2. No officer of Government, no executive authority, officer or servant of any Local Board or Municipality, no tustee, officer or other authority constituted or acting under the Madras Hindu Religious Endowments Board, no priest or person officiating as such, no person assisting or acting under the authority of or with the permission of such officer, servant, authority, trustee, priest or person and no person offering worship, shall be prosecuted, sued or otherwise proceeded against in respect of any act done or step taken or any alleged failure of duty on the 8th day of July 1939 or on any subsequent date up to the commencement of this Ordinance, in furtherance of, or in connexion with, the entry into, and offer of worship in, the Sri Minakshi temple in the city of Madura or any other Hindu temple in the Province of Madras by any person belonging to classes of Hindus hitherto excluded by custom or usage from such entry or worship in the said temple;

and all officers, servants, authorities, trustees, priests and other persons aforesaid are hereby indemnified and discharged from all liability in respect of all such acts, steps and alleged failure of duty.

Sanction for institution or continuance of action.

Madras Act II of 1927.

3. No suit for damages, injunction or declaration or for any other relief, no prosecution for any offence, and no application or other proceeding under the Madras Hindu Religious Endowments Act, 1926, or any other law shall be instituted in respect of any entry into, or worship in the said Sri Minakshi temple or any other Hindu temple in the Province, which was permitted or which may hereafter be permitted by the authorities in charge of the temple, on the gronnd that such entry or worship is against the usage or custom which excludes certain classes of Hindus from such entry or worship without the previous sanction of the Provincial Government and no such suit, prosecution, application or proceeding already instituted before the commencement of this Ordinance shall be continued thereafter without the sanction of the Provincial Government.

ERSKINE,
Governor of Madras.

(By order of His Excellency the Governor).

P. APPU NAIR
Secretary to Government.

APPENDIX XI.

MADRAS ACT No. XXII OF 1939

PASSED BY THE MADRAS LEGISLATURE.

[*Received the assent of the Governor-General on the 4th September 1939, first published in the "Fort St. George Gazette" on the 11th September 1939.*]

An Act to authorize and indemnify trustees, officers and other persons in respect of entry into and offer of worship in Hindu temples by certain classes of Hindus who by custom or usage are excluded from such entry and worship.

[11th September 1939]

Whereas there has been a growing volume of public opinion demanding the removal of the disabilities imposed by custom and usage on certain classes of Hindus in respect of their entry into and offering worship in Hindu temples;

And whereas it is just and desirable to authorize the trustees or other authorities in charge of such temples to throw them open to, and permit, persons belonging to the said classes to enter into and offer worship in such temples, and that no person should suffer any civil or criminal penalty or disadvantage by reason of anything done in connexion with such entry and worship;

And whereas a situation has arisen in the city of Madura and elsewhere in the Province of Madras in which it has become necessary to indemnify and protect officers of Government, trustees, priests and other persons in respect of acts done, steps taken or alleged failure of duty on the 8th day of July 1939 and thereafter of the nature afores[illegible]

It is hereby enacted as follows:—

Short title and ex[illegible]

1. (1) This Act may be called th[illegible] [illegible]ras Temple Entry Authorization and Indemnity Act, [illegible]

(2) It extends to the whol[illegible] [illegible]e Province of Madras.

Madras Act [illegible]f 1927.

Indemnification of officers and other persons for certain acts, etc.

2. No officer of Government, no executive authority, officer or servant of any Local Board or Municipality, no trus-

tee, officer or other authority constituted or acting under the Madras Hindu Religious Endowments Act, 1926, or any other law, no priest or person officiating as such and no person entering or offering worship or assisting or acting under the authority of or with the permission of such officer, servant, authority, trustee, priest or person officiating shall be prosecuted, sued or otherwise proceeded against in respect of any act done or step taken or any alleged failure of duty on the 8th day of July 1939 or on any subsequent date up to the commencement of this Act, in furtherance of, or in connexion with, the entry into and offer of worship in the Sri Meenakshi Sundareswarar temple in the city of Madura or any other Hindu temple in the Province of Madras by any person belonging to classes of Hindus hitherto excluded by custom or usage from such entry or worship;

And all officers, servants, authorities, trustees, priests and other persons aforesaid are hereby indemnified and discharged from all liability in respect of all such acts, steps and alleged failure of duty.

Madras Act II of 1927.

Throwing open of temples in certain circumstances.

3. If in the opinion of the trustee or other authority in charge of any Hindu temple in the Province of Madras the worshippers of such temple are generally not opposed to the removal of the disability imposed by custom or usage on certain classes of Hindus in regard to entry into or offer of worship in such temple, such trustee or other authority may, with the approval of the Provincial Government and notwithstanding anything contained in the Madras Hindu Religious Endowments Act, 1926, or any other law, throw open the temple to such classes and, thereafter persons belonging to such classes shall have the right to enter into and offer worship in such temple:

Provided that in the case of the temples specified in the Schedule to this Act and other Hindu temples in the Province

which have been thrown open to the classes aforesaid before the commencement of this Act such approval shall not be required and the said temples shall be deemed to have been thrown open to the classes aforesaid under the provisions of this section.

Explanation.—If more persons than one are the trustees or constitute the other authority in charge of the temple, a majority of them shall be entitled to decide and act in terms of this section.

No actionable wrong or offence committed by entry or worship in temples thrown open.

4. No person who enters or offers worship in any temple thrown open or deemed to be thrown open under the provisions of section 3 shall by reason only of such entry or worship be deemed to have committed any actionable wrong or offence or be sued or prosecuted therefor.

Sanction for institution or continuance of action. Madras Act II of 1927.

5. No suit for damages, injunction or declaration or for any other relief, no prosecution for any offence, and no application or other proceeding under the Madras Hindu Religious Endowments Act, 1926, or any other law shall be instituted in respect of any entry into, or worship in any temple thrown open or deemed to have been thrown open under section 3, on the ground that such entry or worship is against the usage or custom which excludes certain classes of Hindus from such entry or worship; and no suit or other proceeding shall be instituted in respect of such entry or worship on the ground that there has been any irregularity or failure in complying with the provisions of section 3, without the previous sanction of the Provincial Government. No suit, prosecution, application or proceeding of the nature aforesaid instituted before the commencement of this Act shall be continued thereafter without the sanction of the Provincial Government.

Amendment of section 40, Madras Act II of 1927.

6. In section 40 of the Madras Hindu Religious Endowments Act, 1926, after the words and figures "Subject to the provisions of the Malabar Temple Entry Act, 1938" the words and figures "and the Madras Temple Entry Authorization and Indemnity Act, 1939" shall be inserted.

SCHEDULE.

(See proviso to section 3.)

1. Sri Meenakshi Sundareswarar temple, Madura.
2. Sri Kudalalagar temple, Madura.
3. Sri Sundararajaperumal temple, Valayapatti, Melur taluk, Madura district.
4. Sri Kalamegaperumal temple, Tirumohur, Madura taluk, Madura district.
5. Sri Brahadeeswarar temple, Tanjore.
6. Sri Tirukuttalanathaswami temple, Courtallam, Tenkasi taluk, Tinnevelly district.
7. Sri Kasi Visvanathaswami temple, Tenkasi taluk, Tinnevelly district.

APPENDIX XII.

Bombay Harijan Temple Worship Act 1938.

(Removal of Disabilities).

Whereas it is expedient to provide for the removal of disabilities of Harijans in regard to Worship in temples. It is hereby enacted as follows:—

1. Short title, extent, and commencement:

1. This Act may be called the Bombay Harijan Temple Worship (Removal of Disabilities) Act 1938,

This Act extends to the whole of the Province of Bombay and shall come into force on the 1st day of April 1938.

2. Definitions:

2, In this Act unless there is anything repugnant in the subject or context:—

(1) "[Ccurt" means the Court of the District Judge and includes the High Court in the exercise of its ordinary original civil jurisdiction;

(2) "District" means a district constituted under S. 3 of the Bombay Civil Courts Act 1869 and includes the city of Bombay;

(3) "Harijan" means a member of a caste, race or tribe deemed to be a scheduled caste under the Government of India (Scheduled castes) order 1936;

(4) "Hindu community" includes Jains;

(5) Person having interest" means a person who is entitled to enter or attend for the purpose of the performance of worship in a temple or who is in the habit of entering or attending for such purpose or of receiving any share in the gifts thereto;

(6) "Prescribed" means prescribed by rules made under Section 9;

(7) "Temple" means a place by whatever designation known used as a place of public religious worship and dedicated to or for the benefit as of right by the Hindu community or any section thereof as a place of religious worship.

(8) 'Trustee' means a person by whatever definition known in whom the administration of temple is vested by any

law for the time being in force or the terms of the instrument of trust or the terms of a decree or order of a competent Court relating to such temple or if there is no such person, any person who has administered the temple for a period of one year immediately prior to the date of the declaration made under Section 3, and who is liable as if he were a Trustee;

(9) 'Worship' includes attendance at a temple for the purpose of *darshan* of a deity installed in or within the precincts thereof;

3. Declaration by Trustees opening the temples to Harijans.

(1) A trustee, or if there are more than one trustee, a majority of the trustees, of a temple which by anything contained in the terms of instrument of trust, the terms of dedication or a decree or order of a competent Court relating to such temple or by any custom usage or law for the time being in force, is not open for the performance of worship to any Harijan, may, of his, or their own motion or on the requisition of any person having interest in such temple, notwithstanding anything contained in the terms of the dedication, the decree or order, custom, usage or law, declare in writing that such temple shall be open to Harijans to whom such temple was not open for the performance of worship subject to such conditions and the observance of such ceremonies as may be specified in the declaration.

Provided that the conditions imposed as aforesaid shall not be made applicable to Harijans only.

(2) The declaration shall be in such form and shall contain such particulars as may be prescribed.

(3) The declaration shall be forwarded to the court within the local limits of whose jurisdiction the temple is situate.

(4) The declaration forwarded to the court shall be accompanied by an affidavit made by the Trustee or the majority of

the Trustees of the temple in respect of which the declaration is made and also in the case of a temple which is a public trust to which the provisions of the Bombay Public Trust Registration Act, 1935 apply by a certified copy of an entry in the register of public trusts maintained under Section 7 of the said Act relating to the names and addresses of the Trustees of such public Trust.

4. The Publication of the Declaration.

1. On receipt of such declaration the court shall if it is satisfied that the conditions specified in the declaration do not contravene the requirements of the proviso to sub-Section (1) of Section 3 cause public notice to be given at convenient places or near the temple in respect of which the declaration has been made and shall cause the declaration to be published in the Official Gazette and in a newspaper published in the principal Vernacular of and circulating in the District. The declaration so published shall subject to the provisions of Section 6, be irrevocable and the publication of the declaration in the Official Gazette shall be conclusive evidence that the temple is open to the performance of worship to the Harijans to whom it was not so open, and the instrument of Trust, the terms of dedication the decree or order, custom, usage or law relating to the temple shall be deemed to have been amended accordingly.

Alteration of conditions in declaration.

2. Any of the conditions specified in the declaration published under Section 4, may on the application of the Trustee or if there are more than one Trustee, of the majority of the Trustees of the temple be altered, added to or omitted with the previous sanction of the Court.

5. Application to court to set aside declaration.

1. Any person interested in the temple in respect of which a declaration has been published, under Section 4, may,

within three months from the date of such publication, make an application to the Court which has caused the declaration to be published for the following reliefs only :—

(a) That the person or any of the persons purporting to act as Trustees was not entitled to act as such at the time the declaration was made or (b) that the Trustee making the declaration did not form a majority of trustees of the said temple at the time the declaration was made ;

2. On receipt of such application the Court shall cause notice to be served on the person or persons who made the declaration or upon any other person to whom in its opinion notice of the application should be given specifying the date on which the application is to be heard ;

3. On the date so specified or on any subsequent date to which the hearing may be adjourned the Court shall proceed to hear the applicant and the persons making declaration if any of them appears, and any other person who it considers ought to be heard and shall hold an inquiry ;

4. Such inquiry shall be held in the manner provided by rules made if any by the High Court in its behalf with the previous sanction of the Provincial Government. Save as provided by such rules, the provisions of the Code of Civil Procedure 1908 shall as far as may be, apply to such inquiry ;

5. If the Court is satisfied (a) that the applicant is a person interested in the temple and (b) that person or persons purporting to act as the Sole Trustee or the majority of Trustees, was or were not entitled to act as such at the time the declaration was made, or the trustees who made the declaration did not form the majority of trustees, entitled to act as such at such times, it shall set aside the declaration. If the Court is not so satisfied it shall dismiss the application.

6. In deciding such declaration the Court may make such order as to costs as it thinks reasonable. The provisions of the Civil Procedure Code 1908 relating to the execution of

decrees shall so far as they are applicable, apply to the execution and order as to costs.

7. The decision of the Court under sub Section (5) shall be final and conclusive for the purpose of this Act.

6. Exclusion of Jurisdiction of other Courts.

Save as provided in the Act no civil Court shall entertain any suit or proceeding or shall pass any order or decree or execute wholly or partially any order or decree if the claim involved in such suit or proceeding or if the passing of such order or decree, or if such execution would in any way affect or be inconsistent with the declaration published under section 4, unless it is set aside by the Court under Section 5.

7. Date on which declaration to take effect.

The declaration published under Section 4 shall take effect on the expiry of 3 months from the date of its publication provided that if an application to set aside the declaration is made under Section 5 the declaration shall if not set aside take effect from the date of the decision of the Court on such application.

8. Penalty

Whoever obstructs or causes or tends to cause obstruction to any Harijan from the performance of worship in a temple in contravention of the declaration made under Section 4, shall on conviction be punishable with fine which may extend to Rs. 200 and in the case of a continuing offence with an additional fine which may extend to Rs. 20 every day after the first during which he has persisted in the offence.

9. Powers of Provincial Government to make rules.

Save in regard to matter for which the High Court is empowered to make rules under Section 5 the provincial

Government may make rules for the purpose of carrying out the provisions of the Act.

Rules made under this section shall be subject to the condition of previous publication.

APPENDIX XIII

(As amended by the Select Committee)

THE CENTRAL PROVINCES AND BERAR HARIJAN TEMPLE WORSHIP (REMOVAL OF DISABILITIES) BILL, 1939.

A Bill to remove disabilities of Harijans in regard to worship in temples

WHEREAS it is expedient to provide for the removal of disabilities of Harijans in regard to worship in temples:

It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be cited as the Central Provinces and Berar Harijan Temple Worship (Removal of Disabilities) Act, 1939.

(2) It extends to the whole of the Central Provinces and Berar.

(3) It shall come into force on such date as the Government may, by notification, direct.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context:—

(*a*) "Court" means the Court of the District Judge;

(*b*) "district" means a district constituted under section 15 of the Central Provinces Courts Act, 1917, or the same Act as applied to Berar;

(*c*) "Harijan" means a member of a caste, race or tribe deemed to be a scheduled caste under the Government of India (Scheduled Castes) Order, 1936;

(*d*) "Hindu community" includes Jains;

(*e*) "person having interest" means a person who is entitled to enter or attend for the purpose of the performance of worship in a temple or who is in the habit of entering or attending for such purpose or of receiving any share in the gifts thereto;

(*f*) "prescribed" means prescribed by rules made under this Act;

(*g*) "temple" means a place by whatever designation known used as a place of public religious worship and dedicated to, or for the benefit of or used as or right by, the Hindu community or any section thereof, as a place of religious worship;

(*h*) "trustee" means a person by whatever description known in whom the administration of a temple is vested by any law for the time being in force or the terms of the instrument of the trust or the terms of a decree or order of a competent Court, relating to such temple or, if there is no such person, any person who has administered the temple for a period of one year immediately prior to the date of the declaration made under section 3 and who is liable as if he were a trustee;

(*i*) "worship" includes attendance at a temple for the purpose of *darshan* of a deity or deities installed in or within the precincts thereof.

Declaration by trustees opening the temple to Harijans

3. (1) A trustee or, if there are more than one trustee, the majority of the trustees, of a temple which, by anything con-

tained in the terms of instrument of trust, the terms of dedication or a decree or order of a competent Court relating to such temple or by any custom, usage or law for the time being in force, is not open for the performance of worship to any Harijans may, of his or their own motion or on the requisition of any person having interest in such temple, notwithstanding anything contained in the terms of such instrument, the terms of the dedication, the decree or order, custom, usage or law, declare in writing that such temple shall be open to the Harijans to whom such temple was not open, for the performance of worship, subject to such conditions and the observance of such ceremonies as may be specified in the declaration :

Provided that the conditions imposed as aforesaid shall not be made applicable to Harijans only.

(2) The declaration shall be in such form and shall contain such particulars as may be prescribed.

(3) The declaration shall be forwarded to the Court within the local limits of whose jurisdiction the temple is situate.

(4) The declaration forwarded to the Crurt shall be accompanied by an affidavit made by the trustee or the majority of the trustees, as the case may be, that he is the trustee or they are the majority of the trustees of the temple in respect of which the declaration is made.

Publication of declaration.

4. (1) On receipt of such declaration, the Court shall, if it is satisfied that the conditions specified in the declaration do not contravene the requirements of the proviso to subsection (1) of section 3, cause public notice to be given at convenient places on or near the temple in respect of which the declaration has been made and shall cause the declaration to be published in the Gazette and in a newspaper published in the Court language of the distrct and circulating in the district. The declaration so pubilshed shall, subject to the provisions of section 5, be irrevocable and the publication of the declaration in

the Gazette shall be conclusive evidence that the temple is open to the performance of worship to the Harijans to whom it was not so open and the instrumeut of the trust, the terms of dedication, the decree or order, custom, usage or law relating to the temple shall be deemed to have been amended accordingly.

Amendment of conditions in declaration

(2) Any of the conditions specified in the declaration published under sub-section (1) may, on the application of the trustee or, if there are more than one trustee, of the majority of the trustees of the temple be altered, added to or omitted with the previous sanction of the Court.

Application to Court to set aside declaration

5. (1) Any person having interest in the temple in respect of which a declaration has been published in the Gazette under section 4 may, within three months from the date of such publication, make an application to the Court which has caused the declaration to be published for the following reliefs only:—

(*a*) that the persons or any of the perons purporting to act as trustee was not entitled to act as such at the time the declaration was made, or

(*b*) that the trustees making the declaration did not form a majority of trustees of the said temple at the time the declaration was made.

(2) On receipt of such application, the Court shall cause notice to be served on the person or persons who made the declaration and upon any other person to whom in its opinion notice of the application should be given, specifying the date on which the application is to be heard.

(3) On the date so specified, or on any subsequent date to which the hearing may be adjourned, the Court shall proceed to hear the applicant and the persons making the declaration, if any of them appears, and any other person who, it considers, ought to be heard, and shall hold an inquiry.

(4) Such inquiry shall be held in the manner provided by rules made, if any, by the High Court in this behalf with the previous sanction of the Provincial Government.

Save as provided by such rules, the provisions of the Code of Civil Procedure, 1908, or the same Code as applied to Berar, shall, so far as may be, apply to such inquiry.

(5) If the Court is satisfied—

(*a*) that the applicant is a person having interest in the temple, and

(*b*) that person or persons purporting to act as the sole trustee or the majority of trustees was or were not entitled to act as such at the time the declaration was made, or the trustees who made the declaration did not form the majority of trustees entitled to act as such at such time, it shall set aside the declaration. If the Court is not so satisfied, it shall dismiss the application.

(6) In deciding such application the Court may make such order as to costs as it thinks reasonable. The provisions of the Code of Civil Procedure, 1908, or the same Code as applied to Berar, relating to the execution of decrees shall, so far as they are applicable, apply to the execution and order as to costs.

(7) The decision of the Court under sub-section (5) shall be final and conclusive for the purposes of this Act.

Exclusion of jurisdiction of other Courts.

6. Save as provided in this Act, no civil Court shall entertain any suit or proceeding or shall pass an order or decree or execute wholly or partially any order or decree, if the claim involved in such suit or proceeding or if the passing of such order or decree or if such execution would in any way affect or be inconsistent with the declaration published under section 4 unless it is set aside by the Court under section 5.

Date on which declaration to take effect.

7. The declaration published under section 4 shall take effect on the expiry of three months from the date of its publication in the Gazette, provided that if an application to set aside the declaration is made under section 5, the declaration shall, if not set aside, take effect from the date of the decision of the Court on such application.

Penalty.

8. Whoever, in contravention of the declaration published under section 4, obstructs or causes or tends to cause obstruction to any Harijan in the performance of worship in a temple shall, on conviction, be punishable with fine which may extend to two hundred rupees and, in the case of a continuing offence, with an additional fine which may extend to twenty rupees for every day after the first during which he has persisted in the offence.

Power of Provincial Government to make rules.

9. (1) Save in regard to matters for which the High Court is empowered to make rules under section 5, the Provincial Government may make rules for carrying out the provisions of this Act.

(2) All rules made under this section shall be subject to the condition of previous publication.

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